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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

SIDNEY CHAN
PRESIDENT

CONNIE PEURY
Vice President

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

VICTOR MAKRAS
Commissioner

LT EDWARD GRETTER
Secretary

CALENDAR OF PROCEEDINGS
POLICE COMMISSION MEETING

There will be no Police Commission meeting on Wednesday, December 25, 2002 and January 1, 2003. The next Police Commission Regular Meeting will be on ***Wednesday, January 8, 2003***, at 5:30 p.m., in Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco.

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Commissioner

VICTOR MAKRAS
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JANUARY 8, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

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1. Pledge of Allegiance
2. Roll Call
3. Police Commission Announcements
   a. Motion of Calendaring of New Items
   b. Election of Officers
4. Chief's Announcements and Review of Recent Department Events
5. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
6. Approval of the Awards Committee's Recommendations
7. Discussion and Action re: Consent Searches
8. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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*There will be Public Comments on any item before or during discussion of each item.

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For information about the meeting call 553 1667(v) or 553 9194 (tty)

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JANUARY 8, 2003 REGULAR MEETING

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:40 p.m.

PRESENT: Commissioners Chan, Perry, Friday, Quaranta*, Makras

**Commissioner Quaranta excused at 7:45 p.m.*

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

b. Election of Officers

Commissioner Chan announced that tonight was the time a new president and vice president will be elected. Commissioner Chan thanked his fellow Commissioners and the Command Staff for their support during his 24 months as the Commission President.

Commissioner Chan nominated Commissioner Connie Perry for President, and Commissioner Victor Makras for Vice President. Second by Commissioner Friday. Approved 5-0.

RESOLUTION NO. 1-03

ELECTION OF OFFICERS FOR THE POLICE COMMISSION

RESOLVED, that the Police Commission elected Commissioner Connie Perry as President of the Police Commission and Commissioner Victor Makras as Vice President.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Sanders reported on the issue of vehicle accidents involving department vehicles. The following are being changed or looked into: (1) signs posted in stations reminding officers of auto safety; (2) Pursuit policy being revised; (3) Officers involved in Code 3 situations must complete forms/reports as to the reason for the pursuit; (4) Sergeants to monitor pursuits more closely and alerts officers to safety rules.

Deputy Chief Suhr responded to a question from Commissioner Friday regarding Los Angeles' new pursuit policy. Chief Suhr stated that Los Angeles' new policy only addresses the issue of minor traffic violations, and that he has requested a copy of said policy.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Jean Field, Acting OCC Director, addressed and updated the Commission on cases completed and not completed. She apologized for not submitting a yearly report, but the report is being completed and will be presented to the Commission soon. In response to a question from Commissioner Perry, Ms. Field stated that they are working on a few policy changes and recommendations and will present them to the department at a later date.

APPROVAL OF THE AWARDS COMMITTEE'S RECOMMENDATIONS

Put over to January 15, 2003.

DISCUSSION AND ACTION RE: CONSENT SEARCHES

Assistant Chief Fagan gave an introduction and overview of consent searches and racial profiling.

Mr. Gregg Lowder, Mayor's Office of Criminal Justice, addressed the issue of consent searches, history, overview, and legality, from a prosecutor's perspective.

Mr. Jim Lassart, Attorney at Law, addressed the Commission regarding consent searches from the defense perspective.

Captain James Lynch, Academy, gave an overview of what's being taught to new and advanced officers, including inspectors, sergeants, and lieutenants, regarding consent searches.

Lieutenant John Murphy, Bayview Station and former instructor at the Academy, addressed the issue of practicality of consent searches in the field.

Assistant Chief Fagan made a few closing remarks regarding the issue.

PUBLIC COMMENTS re: Consent Search

The following individuals spoke on the subject regarding consent searches:

Mr. Mark Schlosberg, ACLU
Mr. Ismael Tarikh, Bay Area Police Watch
Mr J. Adachi, Public Defender
Mr. Q. Adams
Mr. Sululagi Palegi, President of the Housing Authority
Unidentified
Unidentified
Ms. Susan Lo
Ms. Janey Jay, Youth Commissioner
Unidentified
Ms. M. Webb
Unidentified
Ms. Samara Marion, OCC
Mrs. Moore
Mr. Morales
Ms. Trac
Ms. Mary Varsalis
Mr. Mark Schlosberg, ACLU

Commissioner Perry asked Chief Fagan if he had stated that the department will add to the traffic stop surveys if a consent search was requested so that the department can track how many people were actually asked. Assistant Chief Fagan stated that that was correct.

Commissioner Makras shared his thoughts about the matter and stated that he is not hearing the pros and cons of how consent searches helps fight crime. He stated that there were three ways of doing searches: (1) Search Warrant; (2) Probable cause; and (3) Consent search. Commissioner Makras stated that if any one of the three searches were eliminated, he would conclude that there would be more crime on the street. Commissioner Makras recommends that data collection be done; that it be presented to the Commission on a monthly basis; and that on a bi-monthly basis, the department report back to the Commission. He also recommend that the Chief come back to the Commission in a period of time, whether it be two weeks or a month, and lay a framework of this Blue Ribbon Committee. Commissioner Makras asked if outside experts could review and interpret the traffic stops data for the Commission.

Commissioner Perry stated that if there will be a Blue Ribbon Panel, she recommends that the Chief report back to the Commission with a recommendation, but she would also like to hear recommendations from the ACLU as to the composition of the panel. Commissioner Perry recommends getting someone from one of the law schools to participate in this panel. Someone who's an expert in this area and would have a neutral position. Commissioner Perry stated that the Commission should hear from other people before action is taken in eliminating consent searches during traffic stops. Commissioner Perry recommends that the Chief report back to the Commission in two weeks with his recommendations on how this panel would be and further recommend that the ACLU should send any information they have along with their recommendations for this panel.

Assistant Chief Fagan clarified the Blue Ribbon Committee as somebody independent to take the data collected, look at it, and give the department a response. Chief Fagan stated that in the data collected, there will be a component of consent search that can be looked at also.

City Attorney Lori Giorgi advised the Commission that because racial profiling/traffic stop survey was not on the calendar for discussion and action, the Commission cannot take any action on said issue. The only issue the Commission can rule on was in regards to Consent Search.

Commissioner Friday made a motion to table the vote on the issue of consent searches to a future date when all five Commissioners are present and can vote on the issue. Motion was second by Commissioner Perry. Motion to reschedule the consent search issue to a future date passed by 4-0 vote.

PUBLIC COMMENTS

Twenty-six (26) citizens, some not identified, spoke to the Commission on two issues: (1) The incident at Thurgood Marshall High School and (2) The good work being done by Captain Puccinelli at Bayview Station.

Ms. Belinda Bellinger, Coleman Center for Youths
Ms. Jennie Kim
Ms. Ruth Radeski, Teacher
Ms. Julie Thomas
Unidentified
Unidentified
Ms. Kim M.
Unidentified, staff member at Marshall High School
Kevin, former student
Thomas
Unidentified, student at Marshall High School
Mr. Mark Schlosberg, ACLU
Unidentified
Ms. Sheila Hernandez
Ms. Barbara Gursch
Mr. Ray Quincino
Mr. Pa
Ms. Lee
Mr. Ismel Tarikh, Bay Area Police Watch
Mr. Howard Woo, resident, spoke on behalf of the Portola Community to commend Captain Puccinelli.
Ms. Pauline Pearl spoke in support of Captain Puccinelli.
Unidentified
Irene
Ms. Maryann Zar
Ms. M. Matron, Ocean View District
Ms. Alvarez
Ms. Taylor, Bayview Rotary

Thereafter, the meeting was adjourned at 9:50 p.m.

Lt. Edward Geeter, #1273

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Lieutenant Edward Geeter
Secretary
THE POLICE COMMISSION

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The Police Commission

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LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JANUARY 15, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

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   a. Motion of Calendaring of New Items
4. Chief's Announcements and Review of Recent Department Events
5. Approval of the Awards Committee Recommendations
6. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
7. Presentation of OCC's First and Second Quarter 2002 Statistical Reports
8. Request of the Chief of Police for Approval to Apply for retroactively, Accept, and Expend Funds from the California Office of Criminal Justice Planning (OCJP) to Implement the Suppression of Drug Abuse in Schools Program
9. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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JANUARY 15, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

POLICE COMMISSION ANNOUNCEMENTS
a. Motion of Calendaring of New Items

Mr. Ishmael Tarikh, Bay Area Police Watch, asked the Commission to hold a hearing regarding the incident that occurred at Thurgood Marshall School.

Commissioner Perry responded by saying she was aware of the concerns and that she will be responding in written form on said issue.

Mr. Mark Schlosberg, ACLU, addressed the Commission and asked that a conference be held regarding the incident at Thurgood Marshall School.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Sanders reported on the efforts put forward by Mayor Brown with the Bayview Community called P.E.A.C.E. (Police, Efforts, Achieving, Community, Excellence). The goals are:

1. Improve quality of life in the community.
2. Improve how policing is done in the community.
3. Strengthening the relationship between law enforcement and the community.
4. Significantly reduce crime in the community.

Chief Sanders then presented a Certificate of Appreciation from Governor Davis to Sergeant Steve Balma who was voted San Francisco's Officer of the Year by the San Francisco District Merchants.

APPROVAL OF THE AWARDS COMMITTEE RECOMMENDATIONS

Commissioner Friday made a motion for approval of the Awards Committee's recommendations, second by Commissioner Quaranta. Approved 5-0.

RESOLUTION NO. 2-03

AWARDS GRANTED TO MEMBERS OF THE POLICE DEPARTMENT

WHEREAS, the following named members of the Police Department have been commended for courageous service under the provisions of General Order 3.09, Section I.A.1 of the San Francisco Police Department, as approved by the Awards Committee on Tuesday, December 17, 2002; and

WHEREAS, Chief of Police Prentice E. Sanders has recommended to the Police Commission that the said members be rewarded under the provisions of Section 8.405(a)(4) of the Charter of the City and County of San Francisco; therefore be it

RESOLVED, that Officers Clayton Harmston and David Parry are hereby awarded Gold Medals of Valor and granted rewards of $1500.00 each, as provided for under said section of the Charter; and be it further

RESOLVED, that Sergeants Eric Vintero and Henry Yee are hereby awarded Silver Medals of Valor and granted rewards of $1000.00 each, as provided for under said section of the Charter; and be it further

RESOLVED, that Officers John Vankoll, Kirk Bozin, Francis Hagan, Robert Leung, and Joseph Marte are hereby awarded Bronze Medals of Valor and granted rewards of $500.00 each, as provided for under said section of the Charter; and be it further

RESOLVED, that Sergeants James Miller, #875, and Marty Lalor, Inspectors Matthew Hanley, John Keane, Robert Bullard, John Tursi, Leonora Militello, Patricia Correa, Stephen Murphy, #539, Officers Francis Hagan, Joseph Marte, *Darren Nocetti**, Ricardo Valdez, Mario Molina, Peter Richardson, Joseph Salazar, Scott Heidohrn, Dion McDonnell, Bryan Woo, Tony Damato, Kirk Edison, Carl Fabbri, Glen Ghiselli, Tracy Boes, Brian Michaud, Irene Michaud, and Robert Leung are hereby awards Meritorious Conduct Awards and granted rewards of $200.00 each, as provided for under said section of the Charter.

*(*Recipient of Two (2) Meritorious Conduct Awards)*

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

and

PRESENTATION OF OCC'S FIRST AND SECOND QUARTER 2002 STATISTICAL REPORTS

Ms. Jean Field, Acting OCC Director, reported on the First and Second Quarter 2002 statistical data on citizen complaints against police officers.

Commissioner Perry asked the Commission Secretary to place on the Commission agenda for the next month a report from the OCC on cases closed by the amount of time cases were opened.

REQUEST OF THE CHIEF OF POLICE FOR APPROVAL TO APPLY FOR RETROACTIVELY, ACCEPT, AND EXPEND FUNDS FROM THE CALIFORNIA OFFICE OF CRIMINAL JUSTICE PLANNING (OCJP) TO IMPLEMENT THE SUPPRESSION OF DRUG ABUSE IN SCHOOLS PROGRAM

Sergeant Colleen Fatooh addressed the Commission regarding the grand from the California Office of Criminal Justice Planning to implement the Suppression of Drug Abuse in Schools Program.

Commissioner Quaranta made a motion to accept the grant. Second by Commissioner Makras. Approved 5-0.

JANUARY 15, 2003 REGULAR MEETING

RESOLUTION NO. 3-03

APPROVAL OF THE REQUEST OF THE CHIEF OF POLICE TO APPLY FOR RETROACTIVELY, ACCEPT, AND EXPEND FUNDS FROM THE CALIFORNIA OFFICE OF CRIMINAL JUSTICE PLANNING TO IMPLEMENT THE SUPPRESSION OF DRUG ABUSE IN SCHOOLS PROGRAM

RESOLVED, that the Police Commission hereby approves request of the Chief of Police to retroactively apply for, accept, and expend funds from the California Office of Criminal Justice Planning to implement the "Suppression of Drug Abuse in Schools Program," including any augmentations, extensions, and modifications.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

PUBLIC COMMENTS

Inspector Lea Militello addressed the Commission and introduced the executive board of the San Francisco Police Officers Pride Alliance, a lesbian, gay bisexual transgender police officers association. The Association thanked Commissioner Friday for his support and thanked the different police officers association, OFJ, POA, LPOA, APOA, and WPOA, for their support.

Mr. Kevin Letton spoke on the issue of consent searches and asked for a hearing on the incident regarding Thurgood Marshall School.

Mr. A. Williams, youth advocate, asked the Commission to look at the rate youths are being arrested and rearrested in the Bayview District and stated that youths should have more constructive things to do.

Thereafter, the meeting was adjourned at 6:10 p.m.

Lt. Edward Geeter, #1273

_____

Lieutenant Edward Geeter
Secretary
THE POLICE COMMISSION

1273/rct

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JANUARY 22, 2003
5:00 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 505-2
San Francisco, California

CLOSED SESSION

1. Roll Call
2. Public Comments on all matters pertaining to the Closed Session
3. Vote on whether to hold Closed Session and/or assert Attorney/Client Privilege to confer with Legal Counsel. (San Francisco Administrative Code Section 67.11(a))
4. Closed Session held pursuant to Government Code 54956.9 and San Francisco Administrative Code Section 67.11(b)

   PUBLIC EMPLOYEE EVALUATION
   a. Chief of Police Prentice E. Sanders

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JANUARY 22, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

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1. Pledge of Allegiance
2. Roll Call
3. Disclosure of Action taken in Closed Session. Discussion and Action on whether to Disclose Discussion in Closed Session
4. Approval of Minutes for the Meetings of January 8th and 15, 2003
5. Police Commission Announcements
   a. Motion of Calendaring of New Items
6. Chief's Announcements and Review of Recent Department Events
7. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
8. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)
9. Disposition on Disciplinary Charges filed against Officer Thomas Abrahamsen, Taraval, (File No. C02-0234 SCM)
10. Disposition on Disciplinary Charges filed against Officer Arkady Zlobinsky, Taraval, (File No. C02-0235 SCM)

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Closed Session cancelled.

JANUARY 22, 2003 REGULAR MEETING

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:35 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Quaranta
ABSENT: Commissioner Friday

DISCLOSURE OF ACTION TAKEN IN CLOSED SESSION. DISCUSSION AND ACTION ON WHETHER TO DISCLOSE DISCUSSION IN CLOSED SESSION

Closed Session cancelled.

APPROVAL OF MINUTES OF MEETINGS OF JANUARY 8TH AND 15, 2003

Commissioner Chan made a motion to approve minutes of meetings of January 8th and 15, 2003. Second by Commissioner Quaranta. Minutes approve 4-0.

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry announced that the next District Meeting will be on Wednesday, February 26, 2003, in the Richmond District.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Sanders addressed and updated the Commission on the investigation of the three off-duty officers allegedly involved in an assault on November 20, 2002. Chief Sanders informed the Commission that the investigation was completed and delivered to the District Attorney on December 3, 2002. The District Attorney requested further information from the Department and that information was delivered to the District Attorney on December 11, 2002. Chief Sanders stated that, at the present time, the police criminal investigation is complete and that the Department is waiting for the District Attorney to file criminal charges if he thinks it is warranted.

OCC DIRECTOR' S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Ms. Jean Field, Acting OCC Director, reported to the Commission of the passing of Ms. Mary Dunlap, OCC Director, on January 19, 2003.

A moment of silence was held in memory of Ms. Dunlap.

Commissioners Perry, Makras, Chan, Quaranta, and Chief Sanders offered their condolences to the staff of OCC.

PUBLIC COMMENTS

Unidentified asked if he could speak regarding agenda items 9 and 10 and stated that Officers Abrahamsen and Zlobinsky should be fired.

DISPOSITION ON DISCIPLINARY CHARGES FILED AGAINST OFFICER THOMAS ABRAHAMSEN, TARAVAL (FILE NO. C02-0234 SCM)

Officer Thomas Abrahamsen was present, represented by Ms. Freya Horne, Attorney at Law.

OCC Attorney Jean Field listed the amended charges against Officer Abrahamsen. Officer Abrahamsen admitted to the truth of the allegations.

Commissioner Chan made a motion to accept plea, second by Commissioner Quaranta. Motion passed 4-0.

Commissioner Perry stated that Officer Abrahamsen is ordered suspended for 30 days with 15 days imposed on his return to duty from disability leave and 15 days held in abeyance for two years. Officer Abrahamsen is ordered to write and to submit to the Chief of Police, within 45 days, a 2500-word paper on the importance of following the Department's General Orders.

(Resolution will be included in the minutes as soon as we have the suspension dates.)

DISPOSITION ON DISCIPLINARY CHARGES FILED AGAINST OFFICER ARKADY ZLOBINSKY, TARAVAL (FILE NO. C02-0235 SCM)

Officer Arkady Zlobinsky was present, represented by Ms. Katherine Mahoney, Attorney at Law.

OCC Attorney Jean Field listed the amended charges against Officer Zlobinsky. Officer Zlobinsky admitted to the truth of the allegations.

Commissioner Chan made a motion to accept plea, second by Commissioner Quaranta. Motion passed 4-0.

Commissioner Perry stated that Officer Zlobinsky is ordered suspended for 30 days with 15 days imposed forthwith and 15 days held in abeyance for two years. Officer Zlobinsky is ordered to write and to submit to the Chief of Police, within 45 days, a 2500-word paper on the importance of following the Department's General Orders.

HEARING OF OFFICER ARKADY ZLOBINSKY, TARAVAL (FILE NO. C02-0235 SCM)

The hearing of Police Officer Arkady Zlobinsky, Star No. 537, Taraval, was called it having been set for this date. Officer Zlobinsky was charged, in a properly verified complaint by Fred H. Lau, Former Chief of Police of San Francisco Police Department, with violating the Rules and Procedures as follows:

SPECIFICATION NO. 1

Unwarranted Action (Search of Detainee Beyond the Scope of Authority in Violation of Department General Order 2.01, Rules 7 and 9);

SPECIFICATION NO. 2

Neglect of Duty (Failure to Take Required Action in Transportation of Female Passengers in Violation of Department General Order 2.01, Rule 36);

SPECIFICATION NO. 3

Neglect of Duty (Inattention to Patrol Duties in Violation of Department General Order 2.01, Rule 1);

SPECIFICATION NO. 4

Neglect of Duty (Misuse of Department Property in Violation of Department General Order 2.01, Rule 23);

SPECIFICATION NO. 5

Neglect of Duty (Failure to Answer Truthfully at OCC Investigative Interview in Violation of Department General Order 2.01, Rule 21, and Department General Order 2.08, Section I.4).

Ms. Jean Field, Attorney at Law, appeared on behalf of the Office of Citizen Complaints and the San Francisco Police Department.

Officer Arkady Zlobinsky appeared in person and was represented by Ms. Katherine Mahoney, Attorney at Law.

Ms. Field entered a motion to amend the charges, deleting Specification No. 5. The Commission approved the department's motion to amend the charges by deleting Specification No. 5.

Officer Zlobinsky admitted to the truth of the allegations contained in Specifications No. 1, 2, 3, and 4 and accepts responsibility for his actions.

The Police Commission unanimously accepted the plea of Officer Zlobinksy.

Based on Officer Zlobinsky's admission, the Commission requested a recommendation from Chief of Police Prentice E. Sanders.

It is the recommendation of Chief of Police Prentice E. Sanders that Officer Zlobinsky be suspended for thirty (30) days, with fifteen (15) days imposed forthwith and fifteen (15) days held in abeyance for two (2) years on the following conditions: That Officer Zlobinsky submit to the Chief of Police, within forty-five (45) day from tonight, a 2500-word paper written by him about the importance of SFPD officers knowing and following department General Orders and that he not engage in any serious acts of misconduct.

The Commission took the matter under submission and the following resolution was adopted:

RESOLUTION NO. 5-03

DECISION - HEARING OF OFFICER ARKADY ZLOBINSKY, TARAVAL (FILE NO. C02-0235 SCM)

WHEREAS, on June 28, 2002, Fred H. Lau, Former Chief of Police of the San Francisco Police Department, made and served charges against Officer Arkady Zlobinsky, as follows:

SPECIFICATION NO. 1:
Unwarranted Action (Search of Detainee Beyond the Scope of Authority in Violation of Department General Order 2.01, Rules 7 and 9);

(1) At all times herein mentioned, Arkady Zlobinsky, Star Number 537,

(hereinafter, "Accused Officer") was and is a police officer employed by the San Francisco Police Department (hereinafter, "Department");

(2) As a police officer, the Accused Officer was and is responsible for knowing and obeying the rules, orders and procedures of the Department;

(3) From 9:00 p.m., August 25, 2001, to 7:00 a.m., August 26, 2001, Accused Officer was on duty in his capacity as a police officer for the Department. Accused Officer was assigned to Unit 3I11E of Taraval Station, together with one other Department police officer (hereinafter, "Partner Officer");

(3) *(sic)* On or around August 26, 2001, at approximately 3:45 a.m., a 48-year old white male (hereinafter "Complainant") and another male adult (hereinafter, "Witness) were talking beside Complainant's legally parked van. Complainant and Witness had attended a late night Alcoholics Anonymous meeting after hours at the nearby Java Beach coffeehouse, then walked along Ocean Beach before returning to Complainant's van;

(4) Accused Officer and Partner Officer drove up to the complainant and his companion in a marked Department patrol vehicle, stopped abruptly, and exited the vehicle immediately, ordering Complainant to "get [his] hands out of [his] pockets;"

(5) Complainant, who was wearing khaki pants and a dress shirt with no jacket, had been keeping his hands in his pants pockets due to the cold, but promptly complied with the order to remove them and placed his hands over his head. Witness, who was wearing jeans and a sweatshirt, had likewise been keeping his hands in his pockets due tot he cold, but had taken his identification out of his pocket to offer the two officers upon their approach;

(6) Accused Officer and Partner Officer, both in Department uniform, were accompanied by a white male adult, aged 20 to 35 years, 5'10" to 6'0", stocky build, dressed in civilian clothing wearing a backwards baseball cap, a Hawaiian-style shirt and a vest (hereinafter, "Ride-Along"). Ride-Along resembled Partner Officer in his facial features;

(7) Accused Officer demanded that Complainant and Witness explain their presence and purpose for being in the vicinity. Both Complainant and Witness explained that they had attended a meeting, taken a walk, and were now merely standing and talking;

(8) Asking if Witness had any weapons or drugs in his pockets, Accused Officer conducted a pat-down search of Witness without Witness's consent, while Partner Officer likewise searched Complainant. Complainant protested that he felt the search was illegal, to which Accused Officer replied by asserting, "I can do anything I want;"

(9 Accused Officer put his hands into Witness's left pants pocket and removed Witness's key ring and keys;

(10) Accused Officer also reached into Witness's socks and stuck a finger inside Witness's shoe;

(11) Accused officer's search of Witness, like Partner Officer's search of Complainant, yielded no evidence of crime, weapons, or contraband, as neither Complainant nor Witness was involved in any wrongdoing;

(12) Rule 9 of Department General Order 2.01 states:

> "MISCONDUCT. Any breach of peace, neglect of duty, misconduct or any conduct by an officer either within or without the State that tends to subvert the order, efficiency or discipline of the Department, or reflect discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, although not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."

(13) Rule 7 of Department General Order 2.01 requires that "[m]embers shall maintain a working knowledge of all information required for the proper performance of their duties;"

(14) Section V of the *Peace Officer Standards and Training* (hereinafter, "POST") *Basic Course Instructor Guide for Search and Seizure* states, in pertinent part:

> "A "pat-down or frisk" is a cursory search **for weapons** of the outer clothing of the person stopped. **It is not a search for contraband.**
> . . .
> The courts have held that an officer must be able to point to **articulable facts** which support a reasonable belief, in light of the officer's experience, that the individual detained was armed and presently dangerous.
> . . .
> Although the officer may have the right to pat down the suspect's outer clothing, the officer may not reach inside the clothing of the suspect or search further unless they have reason to believe that the pat-down has disclosed the presence of a weapon or contraband."

(POST Basic Course Instructor Guide for Search and Seizure (Nov. 1, 1994 ed.), emphasis in original; internal citations omitted.)

(15) The Department's own Field Training Manual states, in pertinent part:

> "During a detention, you have no power to conduct a general, full, exploratory search of the suspect. However, you may conduct a pat-down or limited weapons search of someone you have detained, but **only of his outer clothing and only if you have specific facts which make you feel in danger.** "Standard Procedure" isn't good enough. You must reasonably suspect that the person is armed or may-be [*sic*] armed, although you do not need to be positive.
> . . .
> A pat search consists of a "careful exploration of the outer surfaces of the detainee's clothing" to determine if the detainee is in possession of a concealed weapon or an object which could be used as an instrument of assault."

(San Francisco Police Department Field Training Manual (July 1998 rev.), internal citations omitted).

(16) Accused Officer's search of Witness lacked adequate justification and exceeded the scope of a pat-down or limited weapons search.

SPECIFICATION NO. 2
Neglect of Duty (Failure to Take Required Action in Transportation of Female Passengers in Violation of Department General Order 2.01, Rule 36);

(17) Paragraphs (1), (2), (3) and (6) of Charge No. 1 are incorporated in this charge by reference and realleged as though set forth in full;

(18) On or about 1:06 a.m., August 26, 2001, Accused Officer and Partner Officer arrived at a party at 1837 9th Avenue, in response to a complaint of excessive noise. Accused Officer and Partner Officer were accompanied by Ride-Along;

(19) Upon arrival, Accused Officer and Partner Officer informed the occupants of 1837 9th Avenue that the noise level was too high; an unidentified individual promptly responded by turning down the music;

(20) Accused Officer, Partner Officer, and Ride-Along entered the residence, chatted with civilians at the party, and occasionally entered the diningroom of the residence to have pretzels at the residents' invitation. Speaking to another guest at the party, Ride-Along identified himself as a relative of Partner Officer;

(21) Some time later, a female adult at the party asked Accused Officer and Partner Officer to transport her and three other female adults (hereinafter, collectively, "Female Passengers") from 1837 9th Avenue to a bar at 9th Avenue and Irving Street;

(22) Accused Officer and Partner Officer transported Female Passengers from 1837 9th Avenue to their requested destination of 9th Avenue and Irving Street. Female Passengers were seated in the rear of the patrol car with Ride-Along;

(23) En route to the bar, Accused Officer and Partner Officer demonstrated the functions of their unit's Mobile Video Terminal by running the driver's license number (B3321524) of one of the Female Passengers (hereinafter, "Passenger B3321524"). Ride-Along assisted by reading the number off of the driver's license;

(24) Accused Officer's only notification with Communications Division concerning this incident or the Female Passengers was to report at 1:06 a.m. that he and Partner Officer were on-scene at 1837 9th Avenue, to run California Driver's License No. B3321524 at 1:19 a.m., and to report at 1:42 a.m. that the party had been advised;

(25) On December 12, 2001, Accused Officer appeared for a duly noticed administrative interview with an investigator of the Office of Citizen Complaints (hereinafter, "OCC"). During the interview, Accused Officer admitted having transported female civilians for purposes unrelated to law enforcement, and indicated that he may have done so while on duty August 25-26, 2001;

(26) Accused Officer's failure to advise Communications Division of the transport of Female Passengers constitutes a violation of Rule 36 of Department General Order 2.01, which states:

"TRANSPORTING OF FEMALES. Immediately prior to transporting any female in a Department vehicle, whether due to detention, arrest or any other reason, an officer shall notify Communications Division of the vehicle's starting mileage, the location from which he/she is leaving, and the destination. Upon arrival at the destination, the officer shall immediately notify Communications Division and provide the vehicle's ending mileage. Communications Division shall broadcast starting and ending times as an appropriate response, confirming the officer's broadcasts."

SPECIFICATION NO. 3
Neglect of Duty (Inattention to Patrol Duties in Violation of Department General Order 2.01, Rule 1);

(27) Paragraphs (1), (2), (3), and (6) of Charge No. 1, and Paragraphs (18) through (25) of Charge No. 2 are incorporated in this paragraph by reference and realleged as though set forth in full;

(28) Upon delivering Female Passengers to their destination (the bar at 9th Avenue and Irving Street), Accused Officer and Partner Officer continued to converse with Passenger B3321524 for several minutes. One of the two officers asked Passenger B3321524 for a date;

(29) Accused Officer and Partner Officer were engaged in activities unrelated to their police duties or to any law enforcement activity from the time the occupants of 1837 9th Avenue complied with the request to turn down the volume of the music that generated the noise complaint, to the time they eventually left Female Passenger s(all of them) at the bar on 9th Avenue and Irving Street. This period of inattention to duty lasted approximately 30 to 35 minutes;

(30) The on-duty period of activities unrelated to law enforcement or Department business constitutes a violation of Rule 1 of Department General order 2.01, which states:

"ATTENTION TO DUTY. The basic mission of the San Francisco Police Department and its officers if to protect life and property, preserve the peace, prevent crime, enforce criminal laws and ordinances, and regulate non-criminal conduct as provided by law. While on duty, officers shall devote their entire time t the achievement of this mission within the context of their respective assignments."

SPECIFICATION NO. 4
Neglect of Duty (Misuse of Department Property in Violation of Department General Order 2.01, Rule 23);

(31) Paragraphs (1), (2), (3), and (6) of Charge No. 1, and Paragraphs (18) through (24) of Charge No. 2 are incorporated in this paragraph by reference and realleged as though set forth in full;

(32) Pursuant to SFPD policy, a civilian wishing to do a ride-along with Department officers must, as necessary prerequisite, execute a Ride-Along Request and Review form (hereinafter, "Request"), as well as a Release and Discharge of Liability (hereinafter, "Release"). The Request and Release are to be reviewed by the captain of the station from which the ride-along is to take place. The Request and Release must be approved by the captain, the Deputy Chief of Field Operations, and the platoon commander. Copies of the Request and Release must also be copied to Legal Division;

(33) No Request or Release or other documentation regarding a civilian ride-along at Taraval Station on August 25-26, 2001 were found in the custody of Legal Division, of Taraval Station, or of Field Operations Bureau;

(34) In a December 18, 2001 interview with an Investigator of the OCC, a cousin of Partner Officer who matches the description of Ride-Along (hereinafter, "Cousin") admitted that he accompanied Accused Officer and Partner Officer as a ride-along, probably on August 25-26, 2001. Contacted again on April 26, 2002, Cousin denied ever having accompanied Accused Officer on a ride-along, and denied ever having

admitted otherwise in the course of his December 18, 2001 interview;

(35) No Request or Release or other documentation regarding Female Passengers were found in custody of Legal Division, of Taraval Station, or of Field Operations Bureau;

(36) Rule 23 of Department General Order 2.01 states:

"USE OF DEPARTMENT PROPERTY. Members shall use Department property according to Department policies and procedures. Members shall use and operate Department vehicles and equipment in a reasonable and prudent manner and not allow unauthorized persons in police vehicles or allow them to use Department equipment. Authorization under special circumstances may be granted by a superior officer."

(37) Accused Officer's transport of Ride-Along and Female Passengers in a Department vehicle was not authorized by any superior officer, and therefore constituted a misuse of Department Property in violation of Department General Order, Rule 23;

(38) Accused Officer's and Partner Officer's use of the Department vehicle's Mobile Video Terminal to run Passenger B3321524's driver's license number was not a reasonable and prudent use of Department equipment;

~~SPECIFICATION NO. 5~~
~~Neglect of Duty (Failure to Answer Truthfully at OCC Investigative Interview in Violation of Department General Order 2.01, Rule 21, and Department General Order 2.08, Section I.4).~~

~~(39) Paragraphs (1), (2), (3), and (6) of Charge No. 1, Paragraphs (18) through (25) of Charge No. 2, Paragraphs (28) through (29) of Charge No. 3, and Paragraphs (32) through (28) of Charge No. 4 are incorporated in this paragraph by reference and realleged as though set forth in full;~~

~~(40) On December 12, 2001, Accused Officer appeared for a duty noticed administrative interview with an investigator of the Office of Citizen Complaints. During that interview, Accused Officer denied having been accompanied by Ride-Along or any other civilian ride-along at the time of Complainant's detention. Accused Officer further denied having been accompanied by Ride-Along or any other civilian ride-along at any time during Accused Officer's 9:00 p.m. to 7:00 a.m. shift on August 25-26, 2001;~~

~~(41) Accused Officer's denial as set forth in Paragraph (40) constitutes as violation of Section I.A.4., of Department General Order 2.01, which states;~~

~~"If the investigation is administrative, the officer must answer all questions posed during the administrative investigation. Statements made during an administrative investigation cannot be used against an officer to prove a criminal violation in a subsequent criminal action against the officer. All statements, declaration, or answers to questions regarding the investigation, however, shall be truthful and non-evasive. Members failing to do so shall be subject to disciplinary action."~~

~~(42) Accused Officer's denial as set forth in Paragraph (39) constitutes a violation of Rule 21 of Department General Order 2.01, which states:~~

~~"COOPERATION WITH INVESTIGATIONS. Members shall, when questioned on matters relating to their employment with the Department by a superior officer or by one designated by a superior officer, or by a member of the Office of Citizen Complaints, answer all questions truthfully and without evasion. Prior to being questioned, the member shall be advised of and accorded all his or her rights mandated by law or Memorandum of Understanding (see DGO 2.08, Peace Officers' Rights).~~

WHEREAS, a hearing on said charges was held before the Police Commission pursuant to Appendix A. Section A 8.343 of the Charter of the City and County of San Francisco on January 22, 2003, where the matter was submitted to the Police Commission for decision; and

WHEREAS, based on Officer Arkady Zlobinsky's admission, the Commission finds the allegations contained in Specifications No. 1, 2, 3, and 4 of the disciplinary charges as preferred by Former Chief of Police Fred H. Lau against Officer Zlobinsky are sustained; and the Commission adopts the sustained specifications as its findings in this matter; therefore be it

RESOLVED, that based on these findings, consistent with the Commission's duty to protect the health, safety, and general welfare of the citizens of the City and County of San Francisco and the public in general, and in order to promote efficiency and discipline in the San Francisco Police Department, the Police Commission orders the following discipline be imposed:

SPECIFICATION NO. 1	Sustained
SPECIFICATION NO. 2	Sustained
SPECIFICATION NO. 3	Sustained
SPECIFICATION NO. 4	Sustained

That Officer Zlobinsky be suspended for thirty (30) days, with fifteen (15) days imposed forthwith and fifteen (15) days held in abeyance for two (2) years on the following conditions: That Officer Zlobinsky submit to the Chief of Police, within forty-five (45) days from January 22, 2003, a 2500-word paper written by him about the importance of SFPD officers knowing and following department General Orders and that he not engage in any serious acts of misconduct.

FURTHER RESOLVED, that said fifteen (15) days suspension shall commence on Wednesday, January 22, 2003, at 0001 hours, and terminate on Wednesday, February 5, 2003, at 2400 hours.

If this decision is subject to review under Code of Civil Procedure section 1094.5, then the time and within which judicial review must be sought is governed by California Code of Civil Procedure, section 1094.6.

AYES: Commissioners Perry, Makras, Chan, Quaranta
ABSENT: Commissioner Friday

Commissioner Makras made a motion that the meeting be closed in memory of Ms. Mary Dunlap, Director of the OCC, who passed January 19, 2003 from cancer. Motion second by Commissioner Quaranta.

Thereafter, the meeting was adjourned at 6:15 p.m. in memory of Ms. Mary Dunlap.

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
THE POLICE COMMISSION

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JANUARY 29, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

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JAN 28 2003

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1. Pledge of Allegiance
2. Roll Call
3. Approval of Minutes of the Meeting of January 22, 2003
4. Police Commission Announcements
   a. Motion of Calendaring of New Items
5. Chief's Announcements and Review of Recent Department Events
6. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
7. Discussion and Action re: Revised General Order 6.09, "Domestic Violence"
8. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

*There will be Public Comments on any item before or during discussion of each item.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE: DONNA HALL, ADMINISTRATOR, CITY HALL, ROOM 244, #1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4689; OFFICE (415) 554-5163; E-MAIL: Donna Hall@ci.sf.ca.us. COPIES OF THE SUNSHINE ORDINANCE CAN BE OBTAINED FROM THE CLERK OF THE SUNSHINE TASK FORCE, THE SAN FRANCISCO PUBLIC LIBRARY, AND ON THE CITY'S WEBSITE AT www.ci.sf.ca.us/bdsupvrs/sunshine

Lobbyist Registration and Reporting Requirements
Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Government Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; webs site www.sfgov.org/ethics.

SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

Communication accessibility services; including sign language Interpreters or computer aided real time captioning will be made available upon advance request. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406(tty), at least 72 hours prior to a proceeding. Late requests will be honored if possible.

A **sound enhancement system** will be available on request at the proceeding.

Meeting agendas and other print materials will be made available in **alternate formats** (computer disk, cassette tape, large print or Braille) upon advance request at least 72 hours at least 72 hours prior to a proceeding. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406 (tty). Late requests will be honored if possible.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call 553 1343 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products.

The proceeding will be held at the Hall of Justice, 850 Bryant Street, 5th floor Police Commission Hearing Room. The closest accessible BART station is 5th and Mission Streets. Accessible MUNI lines serving this location are 42 and 9X San Bruno Express.

For information about MUNI service call 923 6142

Accessible parking is available in front of the Hall of Justice, 850 Bryant Street.

Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

JANUARY 29, 2003 REGULAR MEETING

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:35 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

APPROVAL OF MINUTES OF THE MEETING OF JANUARY 22, 2003

Commissioner Quaranta made a motion to approve minutes of meeting of January 22, 2003. Second by Commissioner Chan. Minutes approved 5-0.

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry announced that Deputy City Attorney Mariam Morley has been assigned to be the advisor to the Police Commission. The Commission thanked Deputy City Attorney Lori Giorgi for being the Commission's advisor to this date.

Commission Perry also announced that the Commission will meet at the Richmond Police Station on Wednesday, February 26, 2003.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Sanders introduced Sergeant Robert Guinan, Traffic. Sergeant Guinan introduced the Director of the Special Olympics who presented a plaque to Chief Sanders acknowledging the San Francisco Police Department's efforts during the 2002 Law Enforcement Special Olympics campaign. Sergeant Guinan announced that over 150 officers participated in fund-raisers which raised over $52,000. He acknowledged Sergeant Gittens, Sergeant Craig, and Sergeant Kilshaw for their help in coordinating all the events.

OCC DIRECTOR'S REPORT RE: STAFFING AND RECENT DEPARTMENT EVENTS

Ms. Jean Field, Acting OCC Director, thanked the Commission, from the OCC Staff, for the Commissioners' words of condolence for OCC Director Mary Dunlap who passed on January 19th.

Ms. Field reported that the staff is working on the budget and should have it ready for the Commission's review within a few weeks.

Commissioner Perry asked if arrangements have been made for services for Ms. Dunlap. Ms. Field stated that arrangements have not been finalized.

DISCUSSION AND ACTION RE: REVISED GENERAL ORDER 6.09, "DOMESTIC VIOLENCE"

Lieutenant Sharon McNally, officer-in-charge of the Domestic Violence Unit, outlined the changes to General Order 6.09 and reasons for the changes.

Commissioner Makras asked Lt. McNally for the reason why the word "officers" were eliminated and replaced with the word "members." Lt. McNally explained that all General Orders are being changed to reflect that the general orders apply to all employees of the Police Department, both sworn and non-sworn.

Public Comment re: General Order 6.09

Rosario Navarette, Deputy Director for the Department on the Status of Women, thanked the Department for their work on domestic violence issues. Ms. Navarette asked for clarification on the issue of "Standby." She stated when officers respond to a residence that the officers have the appropriate forms needed.

Lt. McNally and Assistant Chief Fagan that the issue raised by Ms. Navarette is covered in training and throughout other General Orders.

Commissioner Friday made a motion to approval Revised General Order 6.09. Second by Commission Quaranta. Approved 5-0.

RESOLUTION NO. 6-03

APPROVAL OF REVISED GENERAL ORDER 6.09, "DOMESTIC VIOLENCE"

RESOLVED, that the Police Commission hereby adopts revised General Order 6.09, "Domestic Violence."

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta Makras

PUBLIC COMMENTS

Martha Bradigan, Attorney for Homeless Advocacy Project, advised the Commission that officers at Bayview Station are arresting and citing homeless people illegally for sleeping in their vehicles.

Unidentified, advocate for people who, out of necessity, must sleep in their vehicles, stated that they are being harassed by the Police in the Bayview District.

Thereafter, the meeting was adjourned at 6:05 p.m.

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
THE POLICE COMMISSION

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, FEBRUARY 5, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

1. Pledge of Allegiance
2. Roll Call
3. Approval of Consent Calendar
4. Approval of Minutes of Meeting of January 29, 2003
5. Police Commission Announcements
   a. Motion of Calendaring of New Items
6. Chief's Announcements and Review of Recent Department Events
7. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
8. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)
9. Hearing and Disposition on Disciplinary Charges filed against Inspector James Zerga, Robbery Detail (File No. C02-306 SCM)

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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, FEBRUARY 5, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

CONSENT CALENDAR

1. Request of the Chief of Police for Approval to Accept an E-Z-GO Golf Cart from Mr. Vincent Trip, Business Development Manager for Travelex Currency Services Inc., valued at approximately $250.00, for use of the Airport Bureau's Community Policing Program

2. Request of the Chief of Police for Approval to Accept Donation of a Dog from Sergeant Darryl Tsujimoto, valued at approximately $8,000.00, for use of the San Francisco Police Department's K-9 Unit

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FEBRUARY 5, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:40 p.m., in a Regular Meeting.

Commissioner Friday asked those in attendance to stand and give a moment of silence for the seven astronauts who died on the Space Shuttle Columbia.

PRESENT: Commissioners Perry, Makras, Friday, Quaranta
ABSENT: Commissioner Chan

APPROVAL OF CONSENT CALENDAR

Sergeant Darryl Tsujimoto, K-9 Unit, introduced "Barak", a 2-year old Malinois German Shepherd, he was offering to donate to the Police Department.

Commissioner Quaranta made a motion for approval of the consent calendar, second by Commissioner Friday. Approve 4-0.

RESOLUTION NO. 7-03

APPROVAL OF REQUEST OF THE CHIEF OF POLICE TO ACCEPT DONATION OF AN E-Z-GO GOLF CART FROM MR. VINCENT TRIP, BUSINESS DEVELOPMENT MANAGER FOR TRAVELEX CURRENCY SERVICES INC., VALUED AT APPROXIMATELY $250.00, FOR USE OF THE AIRPORT BUREAU'S COMMUNITY POLICING PROGRAM

RESOLVED, that the Police Commission hereby approves request of the Chief of Police to accept donation of an E-Z-GO Golf Cart from Mr. Vincent Trip, Business Development Manager for Travelex Currency Services Inc., valued at approximately $250.00, for sue of the Airport Bureau's Community Policing Program.

AYES: Commissioners Perry, Makras, Friday, Quaranta
ABSENT: Commissioner Chan

RESOLUTION NO. 8-03

APPROVAL OF REQUEST OF THE CHIEF OF POLICE TO ACCEPT DONATION OF A DOG FROM SERGEANT DARRYL TSUJIMOTO, VALUED AT APPROXIMATELY $8,000.00, FOR USE OF THE SAN FRANCISCO POLICE DEPARTMENT'S K-9 UNIT

RESOLVED, that the Police Commission hereby approves request of the Chief of Police to accept donation of a dog from Sergeant Darryl Tsujimoto, valued at approximately $8,000.00, for use of the San Francisco Police Department's K-9 Unit.

AYES: Commissioners Perry, Makras, Friday, Quaranta
ABSENT: Commissioner Chan

APPROVAL OF MINUTES OF MEETING OF JANUARY 29, 2003

Commissioner Quaranta made a motion to approve minutes of meeting of January 29, 2003, second by Commissioner Friday. Minutes approved 4-0.

POLICE COMMISSION ANNOUNCEMENTS

a. **Motion of Calendaring of New Items**

Commissioner Makras asked Assistant Chief Fagan when the department will be presenting the 2003/2004 Budget to the Commission. Deputy Chief Fong informed the Commission that the budget will be presented to the Commission for review on February 12th. However, the budget will not be placed on the Commission calendar until February19, 2003.

Assistant Chief Fagan commended Deputy Chief Fong, Commander Brown, and Captain Goldberg for a job well done in preparing the budget under very difficult circumstances.

Commissioner Perry asked that Deputy Chief Fong meet with Commissioners Makras and Chan to discuss the budget prior to presenting it to the full Commission.

PUBLIC COMMENTS:

Mark Schlosberg, ACLU, asked the Commission to set a hearing date to discuss policing in schools and a hearing to discuss the incident that occurred at Thurgood Marshall School.

Mr. Ismael Tarikh, Bay Area Police Watch, asked the Commission to set hearing dates to discuss policy issues for School Resource Officers (SOR), and policing in schools.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Assistant Chief Fagan informed the Commission that Chief Sanders was out of town attending a Chief's conference.

Chief Fagan reported on the issue raised by Attorney Martha Bradigan at the Commission meeting on January 29th regarding arrest of homeless people sleeping in their cars in the Bayview District. Chief Fagan stated that the police responded to community concerns and the request from the Health Department, NORCAL, and DPW and that 72-hour notices were posted. The Health Department came out to do outreach and interviews prior to any towing or citing.

Chief Fagan also reported on the issue reported in the newspapers regarding police officers in uniform in court in support of Monsignor Heaney. Chief Fagan stated that those who attended should not have been there if they were on duty. He stated that a new department bulletin, titled "Personal Court Appearance by Members," will be issued to address the problem. The bulletin will state in part, "When attending criminal or civil court for personal, rather than professional reasons, members shall attend off-duty and out of uniform. Officers in uniform represents the San Francisco Police Department. An officer's appearance in uniform is viewed as a professional on duty appearance. Appearances in uniform has been perceived as an indication of the Department's position on the matter being heard before the court. This is inappropriate. Officers attending criminal or civil court for personal reasons may not give the impression that their appearance indicates the Department's position on the matter."

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Ms. Jean Field, Acting OCC Director, reported that the memorial services for former OCC Director Mary Dunlap is scheduled for Saturday,

February 15th, at the Herbst Theater. Ms. Field stated that the OCC budget will be ready for presentation to the Commission soon.

Commissioner Makras asked Ms. Field for a list of all reports the OCC are required to present to the Commission and the Department.

PUBLIC COMMENTS

Unidentified addressed the Commission on two incidents that apparently took place in the Bayview District. There was an apparent narcotics unit drug raid on a resident where the only person home was a 13-year old boy, who was handcuffed, frightened, and no drugs were found. The second incident where officers apparently arrested a male subject in his yard for allegedly talking with a known drug dealer. No drugs were found.

Terry Light, Director of Survivors Network of those Abused by Priests (SNAP), thanked Assistant Chief Fagan for addressing the issue of police support of Monsignor Heaney on his sexual abuse charges, but asked the Chief to discipline those officers involved.

Greta Larson addressed the Commission on the issue of police support for Monsignor Heaney. She thanks Chief Fagan for addressing the issue but felt that the department could do more, perhaps training.

Sonia Rubino stated that as a child she was victim of child abuse and it bothered her to see the police supporting a child abuser. She asked for a public apology.

Paul Hessinger addressed the Commission on the issue of child sexual abuse by priests and the hurt and harm the police has done by supporting a child molester. He submitted a letter from SNAP addressing the issue.

HEARING AND DISPOSITION ON DISCIPLINARY CHARGES FILED AGAINST INSPECTOR JAMES ZERGA, ROBBERY DETAIL (FILE NO. C02-306 SCM)

Put over to February 12, 2003.

Thereafter, the meeting was adjourned at 6:15 p.m.

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
THE POLICE COMMISSION

1273/rct

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, FEBRUARY 12, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

1. Pledge of Allegiance
2. Roll Call
3. Police Commission Announcements
   a. Motion of Calendaring of New Items
4. Chief's Announcements and Review of Recent Department Events
5. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
6. Request of the Chief of Police for Approval to Enter into a Lease Agreement for a replacement Narcotic Storage Facility
7. Presentation of Monthly Report re: Traffic Stop Survey
8. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)
9. Hearing and Disposition on Disciplinary Charges filed against Inspector James Zerga, Robbery Detail (File No. C02-306 SCM)

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FEBRUARY 12, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Friday, Quaranta
ABSENT: Commissioner Chan

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Makras asked for an update on the plans to build a new Central Police Station. Assistant Chief Fagan reported that plans for a new Central Police Station has been in the planning stage for approximately six years, but due to budget issues, there are current discussions.

Commissioner Makras asked for a report within a few months on the possibility of a joint facility where housing and a police station could be built if the city donated the land. Assistant Chief Fagan stated that those issues had been discussed, and the current thinking is that housing, parking lots, etc., are not compatible with a joint police facility. Chief Fagan stated he would be willing to discuss such possibilities with the Commissioner at any time.

CHIEF ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Sanders reported that he had just returned from a Chiefs' conference where, among other topics, racial profiling was discussed. Chief Sanders also stated that comparing notes with other cities, that the San Francisco Police Department was on the edge of leading the nation as one of the finest police department in the country.

On the issue of racial profiling, the Department is in contact with Dr. Everheart of Stanford to assist in the issue of data collecting on racial profiling.

On the issue of national security, Chief Sanders stated that even though the nation is at an orange alert stage, the Police Department is well trained and ready to respond to any situation. He also stated that the Department has completed plans to police the Chinese Parade and the anti-war march, and they anticipate to have CHP helicopter support.

Commissioner Makras excused himself.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Ms. Jean Field, Acting OCC Director, reported on the memorial for former OCC Director Mary Dunlap. Ms. Field also stated that the budget should be ready soon.

REQUEST OF THE CHIEF OF POLICE FOR APPROVAL TO ENTER INTO A LEASE AGREEMENT FOR A REPLACEMENT NARCOTIC STORAGE FACILITY

Captain Tim Hettrich, Narcotics, reported on the need for a new facility to store narcotics seized assets due to the department's lost of the current facility at Hunter's Point Naval Base. Motion by Commissioner Friday to approve lease agreement. Second by Commissioner Quaranta. Approved 3-0.

RESOLUTION NO. 9-03

APPROVAL OF REQUEST OF THE CHIEF OF POLICE TO ENTER INTO A LEASE AGREEMENT FOR A REPLACEMENT NARCOTIC STORAGE FACILITY

WHEREAS, the current Narcotic Storage Facility has been condemned;

WHEREAS, the Narcotics Division seizes vehicles which are involved in narcotic cases. The Property Control Division is required to store evidence from narcotic cases which includes items such as light fixtures used in marijuana cultivation; and, the Auto Detail is required to store large quantities of vehicle parts often related to auto stripping activities. Each of these units is required to store the evidentiary items until the court cases come to conclusion;

WHEREAS, a new replacement facility has been located. The lease will be for five years at a fixed monthly rate of $5,650.00 per month. The lease also has a reopener at the end of the five years and gives the department the option of renegotiating a five-year extension;

WHEREAS, the rent will be paid from the Narcotic Division's "Narcotic Asset Forfeiture Fund" and the Auto Detail's "Vehicle Theft Fund;" therefore, be it

RESOLVED, that the Police Commission hereby approves request of the Chief of Police to enter into a lease agreement for a replacement Narcotic Storage Facility.

AYES: Commissioners Perry, Friday, Quaranta
ABSENT: Commissioners Makras, Chan

PRESENTATION OF MONTHLY REPORT RE: TRAFFIC STOP SURVEY

Assistant Chief Fagan reported on the traffic stop data collection for the past month. He stated that it appears that officers are about 85 percent in compliance and that the command staff is looking at why it is not 100 percent compliance. Chief Fagan stated that perhaps it will take approximately six months of data collection to get a good picture on the issue.

PUBLIC COMMENTS re: Traffic Stop Survey

Mark Schlosberg, ACLU, thanked Chief Sanders for his comments on racial profiling and the department's plans. He also stated that he agrees with Chief Fagan, that one month of data collection is not enough to get a good picture on the issue of racial profiling.

Ishmael Tarikh, Bay Area Police Watch, stated that he and an associate was stopped by a police unit two days ago for no apparent reason and that he believes he was being racially profiled.

Commissioner Perry directed Lieutenant Geeter, Police Commission Secretary, to contact the school district and discuss the possibility of a joint hearing on the Thurgood Marshall School incident. She recommends that a panel consisting of two members of the school board and two members of the Police Commission hold this hearing. She asked Lt. Geeter to report back by March 5th.

Assistant Chief Fagan stated that if a hearing took place, members of the command staff would like to participate.

PUBLIC COMMENTS

None

HEARING OF INSPECTOR JAMES ZERGA, SEX CRIMES UNIT FILE NO. C02-306 SCM)

The hearing of Inspector James Zerga, Star No. 54, Sex Crimes, was called it having been set for this date. Inspector Zerga was charged, in a properly verified complaint by Prentice E. Sanders, Chief of Police of the San Francisco Police Department, with violating the Rules and Procedures as follows:

CHARGE NO. 1

Unwarranted Action (Detention of Civilian Without Justification in Violation of Department General Orders 6.18 and 2.01, Rule 9).

CHARGE NO. 2

Unwarranted Action (Transport of Detainee beyond the Scope of Authority in Violation of Department General Orders 5.03 and 2.01, Rule 9).

CHARGE NO. 3

Conduct Reflecting Discredit (Misuse of Police Authority in Furtherance of a Private Dispute Unrelated to Law Enforcement in Violation of Department General Order 2.01, Rules 9 and 25).

Ms. Cynthia Lie, Attorney at Law, appeared on behalf of the Office of Citizen Complaints and the San Francisco Police Department.

Inspector James Zerga appeared in person and was represented by Mr. Peter Furst, Attorney at Law.

Closing arguments were made by Ms. Líe and Mr. Furst.

The Commission took the matter under submission, recessed and returned, finding that Charge Nos. 1 and 2 not sustained and Charge No. 3 sustained.

Based on those findings, the Commission requested a recommendation from Chief of Police Prentice E. Sanders. It is the recommendation of the Chief of Police that Inspector James Zerga be suspended for ninety (90) days with forty-five (45) days held in abeyance for two (2) years on the condition that Inspector Zerga submit to the Chief of Police, within thirty (30) days from this date, a 2500-word paper written by him about police integrity.

The Commission again took the matter under submission, recessed, and returned, and the following resolution was adopted:

RESOLUTION NO. 10-03

DECISION - HEARING OF INSPECTOR JAMES ZERGA, SEX CRIMES (FILE NO. C02-306 SCM)

WHEREAS, on August 9, 2002, Prentice E. Sanders, Chief of Police of the San Francisco Police Department, made and served charges against Inspector James Zerga, Star No. 54, as follows:

CHARGE NO. 1
Unwarranted Action (Detention of Civilian Without Justification in Violation of Department General Orders 6.18 and 2.01, Rule 9).

(1) At all times herein mentioned, the Accused Office was and is a sworn peace officer employed by the San Francisco Police Department (hereinafter, "Department").

(2) As a sworn peace officer in the Department's employ, the Accused Officer was and is responsible for knowing and obeying the rules, orders, and procedures of the Department.

(3) The Accused Officer, together with his wife holds title in joint tenancy to a rectangular lot 25 feet by 100 feet, bordered by Mangels Avenue to the south, and Ridgewood Avenue to the west. No portion of Accused Officer's lot runs along Melrose Avenue, nor does Accused Officer otherwise hold title to any real property along Melrose Avenue.

(4) A 71 year-old female suffering from chronic emphysema (hereinafter, "Victim") holds title to a lot approximating the shape of a right triangle directly to the north of Accused Officer's lot. The first 75 feet of Accused Officer's northern border, running west to east from Ridgewood Avenue, marks the southernmost limit of Victim's lot; the hypotenuse of Victim's triangular lot runs 97 feet along Melrose Avenue, in a northeasterly direction from Ridgewood Avenue.

(5) The Accused Officer has claimed an interest in an area of land along Melrose Avenue between Ridgewood Avenue to the west and Victim's home to the east (hereinafter, "Disputed Property"), by means of the Accused Officer's having installed irrigation systems thereon and having planted a hedge along that portion of Melrose Avenue.

(6) On September 11, 2001, Accused Officer's wife observed Victim cutting down the hedge in the Disputed Property along Melrose Avenue. Accused Officer's wife confronted Victim and told her to stop cutting down the hedge that Accused Officer had planted on the Disputed Property. Victim told Accused Officer's wife that she would do what she wanted. Accused Officer's wife, age 40, then entered the Disputed Property and screamed at Victim; in the process, Accused Officer's wife observed Victim holding a knife the Victim has been using to cut the hedge. Accused Officer's wife did not feel threatened by Victim's actions.

(7) On September 13, 2001, at approximately 10:30 a.m., the Accused Officer filed an incident report (hereinafter, "Incident Report") alleging that his wife was in fear for her safety as a result of the Victim's actions of September 11, 2001, and that Victim had engaged in "malicious mischief" by cutting down the hedge on or in the Disputed Property. Accused Officer filed the Incident Report with an Inspector assigned to the General Works Detail (hereinafter, "Reporting Inspector").

(8) At some point between approximately 2:15 p.m. and 3:30 p.m., Accused Officer spoke by telephone with a Lieutenant at Ingleside Station (hereinafter, "Lieutenant 1") to whom Reporting Inspector had forwarded the Incident Report.

(9) After the conclusion of Lieutenant 1's shift at 3:30 p.m., Accused officer made repeated contact with the next lieutenant on duty at Ingleside Station (hereinafter, "Lieutenant 2") to report that Victim was on the Disputed Property, raking debris. The Accused Officer requested that a unit be dispatched to arrest Victim.

(10) Accused Officer eventually broadcast a PIC radio request for a sergeant to respond, code 904 (meet with officer (non-emergency)). An

Ingleside sergeant (hereinafter, "Sergeant") responded to the radio call and met Accused Officer at his residence.

(11) Two patrol officers (hereinafter, "Responding Officers") dispatched earlier by the Ingleside watch commander arrived shortly after the Sergeant. Accused Officer informed the Sergeant and Responding Officers that a warrant for Victim's arrest was pending. Responding Officers concluded from Accused officer's use of the PIC radio that Accused Officer was on duty and acting under color of authority.

(12) Responding Officers and Sergeant contacted Victim in her home, interviewed her and conducted a warrant check, finding no outstanding warrants for Victim. Discerning no basis to take Victim into custody after interviewing both Victim and Accused Officer, Sergeant contacted Lieutenant 2 and apprised him of their findings; in response, Lieutenant 2 initially told Sergeant to take a report only.

(13) Insisting that a warrant for Victim's arrest had already been approved by the District Attorney and signed by a judge, Accused Officer spoke again to Lieutenant 2. Accused Officer told Lieutenant 2 that Reporting Inspector was obtaining the warrant. Relying upon Accused Officer's representations as to the warrant and the purported risk of imminent harm to Accused Officer's family, Lieutenant 2 instructed Sergeant to detain Victim and bring her to Ingleside Station.

(14) No warrant had been issued, or sought by any member of the Department, for the arrest of Victim at any time on or before September 13, 2001.

(15) Section I.B. of Department General Order 6.18 requires that:

"Whenever a person is detained as the subject of a warrant (whether traffic or non-traffic, foreign or local) the detaining officer shall personally contact the Warrant Section and verify that the warrant is valid before acting on the directions of the warrant. When a warrant has been verified and the identity of the subject is confirmed, the subject shall be taken into custody."

(16) By his misrepresentations to Responding Officers, Sergeant and Lieutenant 2, Accused officer secured the unwarranted detention of Victim. Any reasonable police officer must know that such conduct violates the standards of the department and is cause for discipline or dismissal from employment; therefore, such conduct violates Rule 9 of Department General Order 2.01, which states:

"MISCONDUCT. Any breach of peace, neglect of duty, misconduct or any conduct by an officer either within or without the State that tends to subvert the order, efficiency or discipline of the Department, or reflect discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, although not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."

CHARGE NO. 2

Unwarranted Action (Transport of Detainee beyond the Scope of Authority in Violation of Department General Orders 5.03 and 2.01, Rule 9).

(17) Paragraphs (1) through (16) are incorporated in this charge by reference and realleged as though set forth in full.

(18) The evening of September 13, 2001, Responding Officers and Sergeant

detained and transported Victim to Ingleside Station at Accused Officer's insistence.

(19) Accused Officer prevailed upon Responding Officers and Sergeant to continue detaining Victim at Ingleside Station by promising to send a copy of the warrant to Ingleside via facsimile. No warrant, valid or otherwise, was ever received.

(20) At approximately 6:30 p.m., Accused Officer paged an inspector who had been present when Accused Officer filed his initial report at 10:30 a.m. (Hereinafter, "Witness Inspector"). Accused Officer told Witness Inspector that Victim had been arrested but was about to be release by Lieutenant 2. Although Accused Officer had already furnished a report to Reporting Inspector and a statement to Responding Officers and Sergeant, Accused Officer asked Witness Inspector to tell Responding Officers that Victim had committed felony offenses for which she should be booked into custody.

(21) Witness Inspector attempted unsuccessfully to reach Reporting Inspector, then contacted Lieutenant 2 on Accused Officer's behalf, telling Lieutenant 2 that booking Victim would prevent violence between Accused officer's wife and Victim.

(22) Lieutenant 2 went to see Victim and found her trembling in one of the station chairs. In view of Victim's age, apparent frailty, and the nature of the dispute between Accused Officer and Victim, Lieutenant 2 determined that Victim should be released.

(23) Lieutenant 2 called Accused Officer and informed him to the decision to release Victim, irrespective of whether a warrant were forthcoming.

(24) On September 14, 2001, the District Attorney declined to seek a warrant for the arrest of Victim based upon Accused Officer's allegations of September 13, 2001.

(25) On May 2, 2002, the District Attorney declined to seek a warrant for the arrest of Victim based upon Reporting Inspector's subsequent investigation of Accused Officer's allegations of September 13, 2001.

(26) The District Attorney had declined a request by Accused Officer approximately six years previously to seek an arrest warrant for Victim.

(27) Section I.B. of Department General order 5.03 provides in part that "A police officer may briefly detain a person for questioning or request identification only if the officer has reasonable suspicion that the person's behavior is related to criminal activity."

(28) Section I.C. of Department General Order 5.03 provides that "A detention must be brief and limited to the amount of time reasonably necessary to conduct the investigation."

(29) Accused Officer knowingly and willfully prolonged the detention of Victim beyond the time needed to determine that no warrant existed, first by representing to the Responding Officers and Sergeant that he in fact had a copy of a validly issued warrant and demanding that they continue to detain Victim pending receipt of that warrant, then by enlisting Witness Inspector's intervention with Lieutenant 2 to seek Victim's continued detention on the grounds already investigated and deemed inadequate by Responding Officers, Sergeant and Lieutenant 2 when Victim was initially questioned as to Accused Officer's allegations at her home. Any reasonable police officer must know that

such conduct violates the standards of the department and is cause for discipline or dismissal from employment; therefore, such conduct violates Rule 9 of Department General 2.01 which states:

"MISCONDUCT. Any breach of peace, neglect of duty, misconduct or any conduct by an officer either within or without the State that tends to subvert the order, efficiency or discipline of the Department, or reflect discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, although not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."

CHARGE NO. 3

Conduct Reflecting Discredit (Misuse of Police Authority in Furtherance of a Private Dispute Unrelated to Law Enforcement in Violation of Department General Order 2.01, Rules 9 and 25).

(30) Paragraphs (1) through (29) are incorporated in this charge by reference and realleged as though set forth in full.

(31) Based on his conversation with Accused Officer before the 3:30 p.m. end of his shift, Lieutenant 1 left a note for Lieutenant 2 indicating that Accused officer had reportedly procured a warrant for Victim's arrest for violation of Penal Code Section 245 (assault with a deadly weapon).

(32) Accused Officer called Lieutenant 2 at approximately 4:30 p.m. that same day, reporting that Victim was destroying Accused officer's hedge. Accused Officer represented to Lieutenant 2 that Lieutenant 1 had instructed Accused officer to call for a police car to respond and place Victim in custody in the event that she continued to cut the hedge.

(33) Accused officer called Lieutenant 2 a second time to report that Victim was still cutting the hedge. Accused Officer told Lieutenant 2 that he had an arrest warrant for Victim, for threats to Accused Officer's wife. Lieutenant 2 advised Accused officer that a unit would respond when available.

(34) Accused officer called Lieutenant 2 a third time to inform him that Victim was still cutting the hedge and could be detained on the spot, and to inquire where the responding officers were. Accused Officer called Lieutenant 2 a total of four or five times over the period of two hours, an with sufficient insistence that Lieutenant 2 felt compelled to remind Accused Officer of the chain of command and of their respective ranks.

(35) At no time on September 13, 2001, did any member of the Department or any other law enforcement agency inform or otherwise suggest to Accused Officer that a warrant for Victim's arrest had been sought, issued or presently would be issued.

(36) Accused Officer thus had no basis in fact for advising Lieutenant 1, Lieutenant 2, Responding Officers or Sergeant that a warrant for Victim's arrest existed. Accused Officer's assertion that he was in possession of a copy of such a warrant was also untruthful. These material misrepresentations of fact were calculated to mislead the officers of Ingleside Station, so as to secure the unlawful detention and attempt to secure the unwarranted arrest of Victim, with whom he had been engaged in a private, continuing property dispute.

(37) Rule 45 of Department General order 2.01 provides that "Members shall not use or attempt to use their official positions for securing

personal privileges beyond what is authorized by law, or for avoiding the consequences of illegal conduct."

(38) Penal Code section 146 provides that a public officer who detains any person against her will, "under the pretense or color of any process or other legal authority, . . . without a regular process or other lawful authority, is guilty of a misdemeanor."

(39) Penal Code section 236 prohibits false imprisonment, defined as "the unlawful violation of the personal liberty of another."

(40) Penal Code section 237, subdivision (b) provides for enhanced penalties in cases of false imprisonment of an elder or dependent adult, pursuant to Penal Code section 368(f).

(41) Penal Code section 368, subdivision (g) defines "elder" as "any person who is 65 years of age or older."

(42) Penal Code section 368, subdivision (h) defines "dependent adult" as "any person who is between the ages of 18 and 64, who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights, including, but no limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age."

(43) Penal Code section 368, subdivision (a) codifies the legislative finding "that crimes against elders and dependent adults are deserving of special consideration and protection, not unlike the special protections provided for minor children, because elders and dependent adults may be confused, on various medications, mentally or physically impaired, or incompetent, and therefore less able to protect themselves, to understand or report criminal conduct, or to testify in court proceedings on their own behalf."

(44) Penal Code section 368, subdivision (f) provides that "Any person who commits the false imprisonment of an elder or dependent adult by the use of violence, menace, fraud, or deceit is punishable by imprisonment in the state prison for two, three, or four years."

(45) By misusing his police authority to secure the unlawful detention and attempt to secure the unwarranted arrest of Victim in furtherance of a private dispute unrelated to law enforcement, the Accused Officer violated the foregoing Department General Orders and Penal Code sections. Any reasonable police officer must know that such conduct violates the standards of the department and is cause for discipline or dismissal from employment; therefore, such conduct violates Rule 9 of Department General order 2.01, which states:

"MISCONDUCT. Any breach of peace, neglect of duty, misconduct or any conduct by an officer either within or without the State that tends to subvert the order, efficiency or discipline of the Department, or reflect discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, although not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."

WHEREAS, a hearing on said charges were held before the Police Commission pursuant to Section 8.343 of the Charter of the City and County of San Francisco on November 18, 2002 and November 19, 2002, and on Wednesday, February 12, 2003, the matter was submitted to the Police Commission for decision; and

WHEREAS, the Commission finds that the allegations contained in Charge Nos. 1 and 2 as preferred by the Chief of Police against Inspector James Zerga are not sustained; and

WHEREAS, the Commission finds that the allegations contained in Charge No. 3 as preferred by the Chief of Police against Inspector James Zerga are sustained by a preponderance of the evidence presented. The Commission therefore adopts the language of said charges and its findings in this matter; therefore be it

RESOLVED, that based on these findings, consistent with the Commission's duty to protect the health, safety, and general welfare of the citizens of the City and County of San Francisco and the public in general, and in order to promote efficiency and discipline in the San Francisco Police Department, the Police Commission orders the following discipline be imposed:

That Inspector James Zerga be suspended for ninety (90) days with forty-five (45) days held in abeyance for two (2) years on the condition that Inspector Zerga submit to the Chief of Police, within thirty (30) days from this date, a 2500-word paper written by him about police integrity.

FURTHER RESOLVED that said forty-five (45) days suspension imposed shall commence on Monday, February 17, 2003, at 0001 hours, and terminate on Wednesday, dApril 2, 2003, at 2400 hours.

If this decision is subject to review under Code of Civil Procedure Section 1094.5, then the time and within which judicial review must be sought is governed by California Code of Civil Procedure, Section 1094.6.

AYES: Commissioners Perry, Friday, Quaranta
ABSENT: Commissioners Makras, Chan

(The entire proceeding was taken in shorthand form by Ms. Stephanie Cruz, CSR.)

Thereafter, the meeting was adjourned.

Lt. Edward Geeter, #1273

_____

Lieutenant Edward Geeter
Secretary
THE POLICE COMMISSION

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, FEBRUARY 19, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

DOCUMENTS DEPT.

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1. Pledge of Allegiance
2. Roll Call
3. Approval of Minutes for the Police Commission Meeting of February 5, 2003
4. Police Commission Announcements
   a. Motion of Calendaring of New Items
5. Chief's Announcements and Review of Recent Department Events
6. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
7. Request of the Chief of Police for Approval to Apply for retroactively, Accept, and Expend Funds from the U.S. Department of Justice Office of Community Oriented Policing to Implement the "COPS - Universal Hiring Program"
8. Request of the Chief of Police for Approval to Apply for retroactively, Accept, and Expend Funds from the California State Controllers Office to Implement the "California Law Enforcement Equipment Program (CLEEP)"
9. Discussion and Action re: SFPD Budget for Fiscal Year 2003-2004
10. Discussion and Action re: OCC Budget for Fiscal Year 2003-2004
11. Public Comments
    (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)
12. Hearing and Disposition on Disciplinary Charges filed against Officer Roy Michael Ramos, Bayview (File No. C02-273 JWA)

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

*There will be Public Comments on any item before or during discussion of each item.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Government Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; webs site www.sfgov.org/ethics.

SAN FRANCISCO POLICE COMMISSION
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For information about MUNI service call 923 6142

Accessible parking is available in front of the Hall of Justice, 850 Bryant Street.

Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

FEBRUARY 19, 2003 REGULAR MEETING

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:45 p.m., in a Regular Meeting.

PRESENT: Commissioner Perry, Makras, Chan, Friday, Quaranta

Commissioner Perry stated that she wanted to correct an oversight from last week's Commission Hearing on disciplinary charges filed against Inspector James Zerga, File No. C02-306 SCM. She stated that she had failed to ask her fellow commissioners who deliberated the case if they had read the transcripts. She asked Commissioner Friday if he had read the transcripts. Commissioner Friday replied that not only had he read the transcripts but sat through two days of testimony. Commissioner Perry then asked Commissioner Quaranta if he had read the transcript and Commission Quaranta said yes.

APPROVAL OF MINUTES FOR THE POLICE COMMISSION MEETING OF FEBRUARY 5, 2003

Commissioner Makras made a motion to approve the minutes for the Police Commission meeting of February 5, 2003. Second by Commissioner Friday. Approved 5-0.

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Mark Schlosberg, ACLU, addressed the issue of a planned meeting/hearing with the Police Department and the School Board regarding the Thurgood Marshall High School incident.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Sanders gave a brief report on the anti-war march and demonstration that followed. He stated that a group known as the "Black Bloc" was the cause of the problems. Chief Sanders stated that the officers did an excellent job policing the incident.

Deputy Chief Suhr addressed the Commission on the demonstration and the Black Bloc group. He produced a black backpack which he said was carried by some members of the Black Bloc group. Inside the backpack, Chief Suhr removed the following:

1. Two bricks
2. Four pieces of broken cement building blocks
3. Five bottles, both plastic and glass. Some filled with water, some empty
4. A six-inch piece of pipe
5. A bag containing several small smoke bombs

Chief Suhr stated these were some of the items thrown at the police by this group. He further stated that one female officer form the Mounted Unit was struck in the face with a bottle filled with water.

Commissioner Makras stated that hew as at the Civic Center during the peace march and was impressed with the way officers conducted themselves.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

and

DISCUSSION AND ACTION RE: OCC BUDGET FOR FISCAL YEAR 2003-2004

Ms. Donna Medley, Acting OCC Director, asked if she could also address Item #10, the OCC Budget, out of order.

Commissioner Makras stated that he has been in contact with the OCC during the preparation of the budget and stated he was impressed with the work that was put into getting the job done.

Mr. Frank Martin Del Campo, Local 790, addressed the Commission regarding the OCC Budget and stated that some investigators are not please with the budget and wanted the Commission to be aware of these points and stated that he does not recommend the Commission's approval of the OCC budget.

Commissioner Makras made a motion to approve the OCC's budget. Second by Commissioner Friday. Approved 5-0.

RESOLUTION NO. 14-03

APPROVAL OF BUDGET FOR FISCAL YEAR 2003-2004 FOR THE OFFICE OF CITIZEN COMPLAINTS (OCC)

RESOLVED, that the Police Commission hereby approves the proposed budget of the Office of Citizen Complaints (OCC) for the fiscal year 2003-2004.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

Commissioner Makras asked Ms. Medley how does OCC separate looking at officers conduct at a demonstration and looking at officers conduct at 24th and Mission for example.

Ms. Medley stated the officers must follow the general orders in every situation they face. Commissioner Makras asked if officers must follow the general orders in every situation, does the OCC have some type of general orders that they must follow. Ms. Medley stated that OCC does not have general orders.

REQUEST OF THE CHIEF OF POLICE FOR APPROVAL TO APPLY FOR RETROACTIVELY, ACCEPT, AND EXPEND FUNDS FROM THE U.S. DEPARTMENT OF JUSTICE OFFICE OF COMMUNITY ORIENTED POLICING TO IMPLEMENT THE "COPS-UNIVERSAL HIRING PROGRAM"

Sergeant Collins, Grant Unit, addressed the Commission explaining the COPS Universal Hiring Program.

Commissioner Friday asked if this program mean that the Police Department will have an Academy class this year.

Assistant Chief Fagan stated that this program will help with an Academy class before the end of the current fiscal year and two Academy classes next fiscal year.

Commissioner Friday made a motion to approve the grant. Second by Commissioner Makras. Approved 5-0.

RESOLUTION NO. 11-03

APPROVAL OF THE REQUEST OF THE CHIEF OF POLICE TO APPLY FOR RETROACTIVELY, ACCEPT, AND EXPEND FUNDS FROM THE U.S. DEPARTMENT OF JUSTICE OFFICE OF COMMUNITY ORIENTED POLICING TO IMPLEMENT THE "COPS-UNIVERSAL HIRING PROGRAM"

RESOLVED, that the Police Commission hereby approves request of the Chief of Police to retroactively apply for, accept, and expend funds from the U.S. Department of Justice Office of Community Oriented Policing to implement the "COPS-Universal Hiring Program."

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

REQUEST OF THE CHIEF OF POLICE FOR APPROVAL TO APPLY FOR RETROACTIVELY, ACCEPT, AND EXPEND FUNDS FROM THE CALIFORNIA STATE CONTROLLERS OFFICE TO IMPLEMENT THE "CALIFORNIA LAW ENFORCEMENT EQUIPMENT PROGRAM (CLEEP)"

Sergeant Collins, Grant Unit, presented the "California Law Enforcement Equipment Program."

Motion by Commissioner Makras to approve the grant. Second by Commissioner Chan. Approved 5-0.

RESOLUTION NO. 12-03

APPROVAL OF THE REQUEST OF THE CHIEF OF POLICE TO APPLY FOR RETROACTIVELY, ACCEPT, AND EXPEND FUNDS FROM THE CALIFORNIA STATE CONTROLLERS OFFICE TO IMPLEMENT THE "CALIFORNIA LAW ENFORCEMENT EQUIPMENT PROGRAM (CLEEP)"

RESOLVED, that the Police Commission hereby approves request of the Chief of Police to retroactively apply for, accept, and expend funds from the California State Controllers Office to implement the "California Law Enforcement Equipment Program (CLEEP)."

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

DISCUSSION AND ACTION RE: SFPD BUDGET FOR FISCAL YEAR 2003-2004

Chief Sanders addressed the Commission giving an overview of the budget and plans for the future regarding the Department's budget. Among which were 80 new police officers and a 30 percent increase in civilianizing some positions to release more officers back to patrol.

Captain Goldberg, Fiscal Unit, addressed the Commission and explained the budget for fiscal year 2003-2004 in more detail. Captain Goldberg thanked his staff, Officer Wilson-Lozada and Officer Strong, and Sergeant Collins.

Frank Martin Del Campo, Local 790, addressed the Commission regarding the budget. He presented concerns from the Payroll clerks of the Police Department and from the security guards at the entrance of the building.

Chris Cunnie, POA President, addressed the Commission regarding the budget.

Commissioner Makras made a motion to approve the SFPD budget for the fiscal year 2003-2004. Second by Commissioner Chan. Approved 5-0.

RESOLUTION NO. 13-03

APPROVAL OF BUDGET FOR FISCAL YEAR 2003-2004 FOR THE SAN FRANCISCO POLICE DEPARTMENT

RESOLVED, that the Police Commission hereby approves the proposed budget of the San Francisco Police Department for the fiscal year 2003-2004.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

PUBLIC COMMENTS

None

HEARING AND DISPOSITION ON DISCIPLINARY CHARGES FILED AGAINST OFFICER ROY MICHAEL RAMOS, BAYVIEW (FILE NO. C02-273 JWA)

Put over for March 12, 2003.

Thereafter, the meeting was adjourned at 7:10 p.m.

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
THE POLICE COMMISSION

1273/rct

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Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA
REGULAR MEETING
WEDNESDAY, FEBRUARY 26, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco

1. Pledge of Allegiance
2. Roll Call
3. Approval of Minutes for the Police Commission Meeting of February 12, 2003
4. Police Commission Announcements
   a. Motion of Calendaring of New Items
5. Chief's Announcements and Review of Recent Department Events
6. OCC Director's Report re: Staffing, Budget and Summary of Recent Events
7. Public Comments
   (Members of the public may address the Commission for up to 3 minutes for individuals or up to 5 minutes for groups. The President of the Commission may limit the total testimony time.)

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**There will be Public Comments on any item before or during discussion of each item.*

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Lobbyist Registration and Reporting Requirements
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SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

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FEBRUARY 26, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:45 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Friday
ABSENT: Commissioner Quaranta

APPROVAL OF MINUTES FOR THE POLICE COMMISSION MEETING OF FEBRUARY 12, 2003

Commissioner Makras asked that a correction be made to the minutes of the Commission meeting held on February 12, 2003. He asked that the minutes show that he excused himself after the Chief's announcements and before OCC's report. Thereafter, Commissioner Makras made a motion to approve the minutes of February 12, 2003. Second by Commissioner Friday. Approved 4-0.

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry asked the Commission Secretary if the hearing with the San Francisco Unified School District and the School Board can be held on a Friday if possible.

Ishmael Tarikh, Bay Are Police Watch, asked that the hearing not take place on a Friday. He was concern that not many students would attend on a Friday.

Commissioner Perry stated that his comments are noted.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Sanders reported that generally the Police Department is moving in a positive direction. He stated that they celebrated a Peace Zone in the Bayview District and that it has received rave from the community. He also introduced Sgt. Neville Gittens of the Public Affairs office. Sgt. Gittens reported on the arrest of four juveniles during the Thurgood Marshall High School incident. He stated that, after many meetings between the police, students, parents, and community, a decision was made to dismiss the charges filed against those arrested. He further stated that what the Police Department is trying to do was to reach a decision that would benefit the Police Department, the students and parents, and the community. In dismissing the charges it promotes community healing, improve police and community relations, rebuild SRO and students relations, and provide the students a positive learning experience rather than a criminal record.

Commissioners Makras, Chan, and Perry asked a few questions on the issue of dismissing the charges and how the department will respond to a similar incident where students asked to be treated in a similar way as the students at Thurgood Marshall School. Deputy Chief Robinson stated that this was a unique situation where the juvenile courts were involved as they are involved when recommending diversion, probation, or incarceration. Also, the charges were not simply dismissed to promote community relations. All four juveniles will be monitored and mentored by members of the department, including Deputy Chief Robinson.

Chief Sanders stated that this is a way of giving four juveniles a second chance in a community that don't often receive a second chance to grow without having a criminal record. He also stated that there are no guarantees that this experiment will succeed.

The Commissioners stated that they think the concept was good and they hope it succeeds.

PUBLIC COMMENT:

Kevin Letton discussed concerns regarding Thurgood Marshall School and stated that the Police Department is labeling the students are criminals and once they have a public hearing, they will see that they are wrong.

Commander Hom addressed the Commission and reported on the investigation of a fatal automobile accident that occurred at 24th and Potrero Avenue. Commander Hom reported that the investigation is in two phases. Phase One consist of statements of witnesses and drivers and inspection of the location. Phase Two consist of reconstruction, conditions of the vehicles, streets, and street lights. He stated that the investigation should be completed in about three weeks.

OCC DIRECTOR'S REPORT RE: STAFFING, BUDGET, AND SUMMARY OF RECENT EVENTS

Ms. Jean Field, Acting OCC Director, reported on training and asked if the Police Department could update OCC investigators on crowd control training. Also, they hope to send investigators to homicide training, MCD training, and CPR training through the Fire Department.

PUBLIC COMMENTS

Unidentified woman spoke on the issue of the shooting of an 18-year old on 19th Avenue.

Thereafter, the meeting was adjourned at 6:10 p.m.

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
THE POLICE COMMISSION

1273/rct

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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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ANGELO QUARANTA
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LT. EDWARD OBERTA
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

NOTICE OF EMERGENCY MEETING
FRIDAY, FEBRUARY 28, 2003
5:00 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

CLOSED SESSION

1. Pledge of Allegiance
2. Roll Call
3. Public Comments on Items 4-6
4. Discussion and vote whether an emergency situation exists within the meaning of California Government Code Section 54956.5
5. Discussion and vote whether to meet in Closed Session pursuant to Government Code Section 54596.5
6. Closed Session

   Pursuant to Government Code Section 54757 and San Francisco Administrative Code Section 67.10(b).

   PUBLIC EMPLOYEE PERFORMANCE EVALUATION:
   Chief of Police Earl Sanders

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SAN FRANCISCO POLICE COMMISSION AGENDA

NOTICE OF EMERGENCY MEETING
FRIDAY, FEBRUARY 28, 2003
5:00 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

OPEN SESSION

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1. Roll Call

2. Disclosure of Action taken in Closed Session. Discussion and Action on whether to Disclose Discussion in Closed Session

3. Public Comments
(Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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FEBRUARY 28, 2003 **EMERGENCY MEETING**

The Police Commission of the City and County of San Francisco met in an emergency meeting on Friday, February 28, 2003, in Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:10 p.m.

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

PUBLIC COMMENTS

Ishmael Tarikh, Bay Area Police Watch, recommended that the Commission remove the Chief and the Command Staff while they are under indictment.

Van Jones, Bay Area Police Watch, recommended that the Commission suspend the Chief and the Command Staff and not to do it in closed session.

Inspector Julian Hill, OFJ President, spoke in support of the Command Staff and asked the Commission not to rush to judgment.

Chris Cunnie, POA President, asked the Commission not to get involved in a witch hunt, and to show leadership during this situation. He further stated that the City, during these times of terrorist attacks, need the Command Staff.

Honorable Mayor Willie L. Brown asked the Commission not to remove the Chief nor the Command Staff. The Mayor made two recommendations: (1) The Commission request the office of the Attorney General to investigate the circumstances surrounding the indictments. (2) That the Commission have another police department conduct the internal investigation and not the Department's MCD.

Chris Cunnie, POA President, supports the Mayor's recommendations to ask the Attorney General to investigate and that an outside investigation be conducted by another department.

Mr. Ho recommended that the Commission remove the Chief and his Command Staff.

Linda, Books not Bars, asked the Commission to remove the Chief and the Command Staff.

James Morley, Lets get Free, supports the idea of removing the Chief and the Command Staff.

Unidentified spoke in support of the Chief stating that he has assisted her many times.

James Bryant, President of Transportation Workers Union, spoke in support of the Chief and the Command Staff.

Abe Williams asked the Commission to use their good judgment in deciding this difficult issue.

DISCUSSION AND VOTE WHETHER AN EMERGENCY SITUATION EXISTS WITHIN THE MEANING OF CALIFORNIA GOVERNMENT CODE SECTION 54956.5

Commissioner Chan made a motion that this situation ranks as an emergency. Second by Commissioner Makras. Motion passed 5-0.

DISCUSSION AND VOTE WHETHER TO MEET IN CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION 54596.5

Commissioner Chan made a motion to meet in Closed Session. Second by Commissioner Makras. Motion passed 5-0.

CLOSED SESSION

Pursuant to Government Code Section 54757 and San Francisco Administrative Code Section 67.10(b).

PUBLIC EMPLOYEE PERFORMANCE EVALUATION:
Chief of Police Earl Sanders

OPEN SESSION

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

DISCLOSURE OF ACTION TAKEN IN CLOSED SESSION. DISCUSSION AND ACTION ON WHETHER TO DISCLOSE DISCUSSION IN CLOSED SESSION

Commissioner Chan made a motion not to disclosed the discussion held in Closed Session. Second by Commissioner Makras. Motion passed 5-0.

Thereafter, Commissioner Perry read the following statement:

"This Commission is faced with a serious and unprecedented situation. We appreciate the necessity to act promptly to maintain the public's confidence that the Police Department can continue to perform its law enforcement function during the pendency of the criminal charges filed today. We also understand that all of the individuals charged today are innocent until proven guilty, and that we act must act responsibly, upon consideration of the facts of the situation. Finally we appreciate the Mayor's appearance before us tonight and we take seriously his requests that we keep Chief Sanders in his position as Chief during the pendency of the criminal charges, and that we invite the Attorney General to conduct an administrative investigation into this matter in lieu of the internal investigation that would normally be conducted by the Department's Management Control Division. In light of all these considerations we hereby request that the City Attorney make every effort to obtain immediately copies of the indictments filed against the Chief and his command staff for the Commission's review, and we hereby direct the Secretary to the Commission to schedule a meeting for twelve noon on Monday, March 3rd, to permit the Commission to further consider this matter."

Thereafter, the meeting was adjourned at 9:15 p.m.

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
THE POLICE COMMISSION

1273/rct

MARCH 3, 2003 **EMERGENCY MEETING**

The Police Commission of the City and County of San Francisco met in an emergency meeting on Monday, March 3, 2003, in Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 12:20 p.m.

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

DISCUSSION AND VOTE WHETHER TO CONDUCT AN EMERGENCY MEETING PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 54956.5

Commissioner Makras made a motion to hold an emergency meeting. Second by Commissioner Quaranta. Motion passed 5-0.

DISCUSSION AND POSSIBLE ACTION TO REQUEST THAT THE CALIFORNIA ATTORNEY GENERAL CONDUCT AN ADMINISTRATIVE INVESTIGATION INTO THE FACTS UNDERLYING THE CRIMINAL INDICTMENT OF THE CHIEF OF POLICE AND MEMBERS OF THE COMMAND STAFF OF THE SAN FRANCISCO POLICE DEPARTMENT

Commissioner Perry announced that this item is taken off calendar.

PUBLIC COMMENTS

Chris Cunnie, POA President, spoke in support of the Command Staff.

Ishmael Tarikh, Bay Area Police Watch, stated that he agrees with the officers stepping aside.

Julian Hill, OFJ President, spoke in support of the Command Staff.

Mike Serujo, LPOA, spoke in support of the Command Staff.

Nelson Lum, APOA, spoke in support of the Command Staff.

Van Jones, Ella Baker Center, agreed to the Command Staff stepping aside.

Mark Schlosberg, ACLU, supports the Command Staff stepping aside.

Lea Militello spoke in support of the Command Staff.

Rich Cairns, retired SFPD Captain, spoke in support of the Command Staff.

J. Imani, Bay Area Police Watch, supports the Command Staff stepping aside.

Linda Anderson, Books Not Bars, supports the idea of the Command Staff stepping aside.

J. Ho, Lets Get Free, agreed with the idea of the Command Staff stepping aside.

Mark Solomon spoke against the Police Department.

Fred Hopson spoke in support of the Police Department.

Rodney spoke in support and against the Police Department.

Mike Molina, Books Not Bars, spoke against the Police Department.

J. Fernandez, Books Not Bars, spoke against the Department.

CLOSED SESSION

Pursuant to Government Code Section 54757 and the San Francisco Administrative Code Section 67.10(b)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION/DISCIPLINE:
Chief of Police Earl Sanders (Action Item)

RECONVENE IN OPEN SESSION

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

DISCLOSURE OF ACTION TAKEN IN CLOSED SESSION PURSUANT TO SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(b)

Commissioner Perry sated that the Commission took no action during Closed Session.

DISCUSSION AND VOTE WHETHER TO DISCLOSE THE DISCUSSION IN CLOSED SESSION. (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(a))

Commissioner Chan made a motion not to disclose discussion in Closed Session. Second by Commissioner Quaranta. Motion passed 5-0.

Commissioner Perry then read the following statement:

"This Commission acknowledges that members of the command staff under indictment have offered to step aside and to go on leave during the pendency of the criminal proceedings, and Chief Sanders has accepted that offer. Chief Sanders has designated Deputy Chief Heather Fong as Acting Assistant Chief. At this time, Chief Sanders and Acting Assistant Chief Fong remain in day-to-day command of the Department.

The Commission has not yet received a copy of the indictments or grand jury transcripts from the District Attorney. Accordingly, this meeting is adjourned until Wednesday, March 5th, at 5:00 p.m."

Thereafter, the meeting was adjourned.

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
THE POLICE COMMISSION

1273/rct

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LT EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, MARCH 5, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

1. Pledge of Allegiance
2. Roll Call
3. Approval of Minutes for the Police Commission Meetings of February 19th and 26, 2003
4. Police Commission Announcements
   a. Motion of Calendaring of New Items
5. Chief's Announcements and Review of Recent Department Events
6. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
7. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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MARCH 5, 2003 EMERGENCY MEETING

NOTICE OF ADJOURNED MEETING

The San Francisco Police Commission meeting of Monday, March 3, 2003, is recessed to Wednesday, March 5, 2003, at 5:00 p.m. The agenda for the recessed meeting of Monday, March 3, 2003, is attached to this Notice of Adjournment.

Emergency meeting cancelled at 5:05 p.m.

MARCH 5, 2003 REGULAR MEETING

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Chan, Friday, Quaranta
ABSENT: Commissioner Makras

APPROVAL OF MINUTES FOR THE POLICE COMMISSION MEETINGS OF FEBRUARY 19TH AND 26, 2003

Commissioner Chan made a motion for approval of the Police Commission minutes of February 19th and 26, 2003. Second by Commissioner Friday. Motion approved 4-0.

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Lieutenant Edward Geeter, Commission Secretary, informed the Commission that the meeting of March 19th will be held at the Ingleside Police Station.

Ishmael Tarikh, Bay Area Police Watch, asked the Commission about the progress of the joint hearing between the school board and the Police Commission.

Lieutenant Geeter informed the Commission that he is in contact with both the San Francisco Unified School District and the School Board regarding the joint hearing, but nothing has been finalized.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Acting Assistant Chief Heather Fong introduced herself and announced the temporary changes to the command staff: Commander Sylvia Harper will be Acting Deputy Chief of Administration; Commander James Dudley will be Acting Deputy Chief of Investigation; Commander Richard Hom will be Acting Deputy Chief of Field Operations Bureau. Deputy Chief Mindy Pengel will remain at the Airport. Deputy Chief Rick Bruce will remain in Special Operations and Security. Lieutenant Robert Battaglia will be Acting Captain of Mission Station and Commander Kathryn Brown will remain in Administration.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Ms. Jean Field, Acting OCC Director, stated that members of the OCC monitored the demonstration early this day and that they have conducted an in-house training regarding monitoring demonstrations and that they plan to meet

with Acting Assistant Chief Fong in the near future to ensure that the complaint system proceeds in a timely manner.

PUBLIC COMMENTS

Minister Amos Brown, San Francisco NAACP President, spoke on the issue of the indictment of Chief Sanders and stated that he considers this incident as a lynching.

Rich Strickman spoke on the issue of police misconduct.

Mike Molina, Lets Get Free, spoke on the issue of police brutality.

Ishmael Tarikh, Bay Area Police Watch, spoke on the issue of racial profiling.

Van Jones, Ella Baker Center, spoke on the issue of police shooting where the person was killed or wounded.

Debra Hooper, sister of subject who was shot and killed by an off-duty officer, spoke on the issue of police brutality.

Susan McAlister, mother of female juvenile involved in the Martin Luther King incident last year. She stated that both she and her daughter are still dealing with the effects of the incident.

Teresa Bishop spoke on the issue of the Martin Luther King incident.

Jessie Fernandez, Books Not Bars, spoke on the issue of police brutality.

Kim Malslosky spoke on the issue of police misconduct.

Mark Schlosberg, ACLU, spoke in general of what he called misconduct.

Daniel Piese spoke on the issue of police misconduct.

David Patterson spoke on the issue of having an open government.

Minister Frazier, Black American Community Board, spoke in support of the Police Department.

Unidentified spoke on the issue of police misconduct.

Jim Habor spoke on the issue of the brutality of war and the brutality of the police.

Kevin Letton spoke on the issue of police brutality.

Doug Costock spoke on the issue of police misconduct.

Isun Ho spoke in general about police misconduct.

Minister Bob Wave stated that we all need to put God back into our lives.

Frank Del Campos stated that the Commission and police command staff should listen and have a dialogue with the speakers.

Dr. Wallbond, Greater African American Association, spoke on the issue of cooperation between youths and police and stated that the black community need the police.

Mike Serujo, LPOA, welcomed the appointment of Acting Assistant Chief Fong and pledged their support.

Minnie Ward, OMI in Action, spoke in support of the Police Department and Chief Sanders.

Fred Chew spoke on the issue of police brutality and George Bush war crimes.

Thereafter, the meeting was adjourned at 7:50 p.m.

Lt. Edward Geeter, #1273

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Lieutenant Edward Geeter
Secretary
THE POLICE COMMISSION

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Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, MARCH 12, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

1. Pledge of Allegiance
2. Roll Call
3. Police Commission Announcements
   a. Motion of Calendaring of New Items
4. Chief's Announcements and Review of Recent Department Events
5. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
6. Presentation of OCC's Annual Audit under SFPD General Order 8.10
7. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)
8. Disposition on Disciplinary Charges filed against Inspector Henry L. Kirk, General Works, (File No. C01-411 GRN)
9. Hearing and Disposition on Disciplinary Charges filed against Officer Roy Michael Ramos, Bayview, (File No. C02-273 JWA)

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MARCH 12, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry announced that she had a conversation with the Vice President of the School Board. She stated that the School Board is in favor of a joint hearing on the Thurgood Marshall High School incident.

Commissioner Makras asked that the Department calendar a follow-up report on the Investigations Bureau. He reminded the Command Staff that a 30-60-90 day plan was put into place to address the issue.

Mark Schlosberg, ACLU, presented an ACLU report titled "Road Map to Reform." He asked the Commission to calendar a police accountability mechanism.

Ishmael Tarikh, Bay Area Police Watch, asked the Commission to calendar an accountability program.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Assistant Chief Fagan reported on the Department's ongoing Traffic Stop survey and stated that compliance is about 91 percent. Chief Fagan also stated that the Department is in contact with experts in the field to advise the department with the meaning of the data and what the department needs to look for.

Assistant Chief Fagan also reported that a draft of the General Order addressing racial profiling has been completed and copies were given to the OCC, ACLU, and Bay Area Police Watch for their input.

Acting Deputy Chief Dudley, Investigations, reported on the homicide of Mr. Vicente Pascua, an 81-year old man, who was on his way to work when he was attacked and robbed. A $20,000 is offered for information leading to the arrest of the person(s) responsible.

Commissioner Quaranta excused himself.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

and

PRESENTATION OF OCC'S ANNUAL AUDIT UNDER SFPD GENERAL ORDER 8.10

Ms. Donna Medley, Acting OCC Director, asked if she could address both items, #5 and #6, together.

Commissioner Perry stated that, before OCC's report, she would like to make the following statement:

"The OCC has reported to the Commission that the Police Department

has violated General Order 8.10. We are, therefore, required under the general orders to commence an investigation and to ensure that any violations of the guidelines cease immediately. S, at this time, we would like to request the Chief of Police to immediately undertake an investigation of the incidents described in the OCC audit. We recommend that you appoint Deputy Chief Heather Fong to complete that investigation and report back to the Commission within a week the results of that investigation."

Assistant Chief Fagan stated that it will be done.

Ms. Donna Medley, Acting OCC Director, reported on the Annual Audit under General Order 8.10. General Order 8.10 addresses the guidelines for First Amendment Rights. Ms. Medley stated that undercover officers videotaped three antiwar demonstrations without approval from the Chief of Police.

Ms. Medley commended Lt. Morris Tabak of SID for putting together roll call training on guidelines of First Amendment Rights. She then requested that the Commission conduct an investigation into the matter.

Commissioner Makras asked Assistant Chief Fagan if the tapes in question could be sealed or destroyed so that it cannot be used during the investigation and so not to compound the problem.

Assistant Chief Fagan stated that the tapes could not be sealed but the department does have a records destruction table that list when records could be destroyed. However, he stated that Acting Deputy Chief Dudley would address the issue.

Acting Deputy Chief Dudley addressed the Commission and stated that the tapes are being reviewed due to criminal activities recorded, property damage and officers assaulted. He stated that he and Lt. Tabak will report back to the Commission, through the Chief, once the review is completed and prior to taking any action with the tapes.

Commissioner Makras stated that the Commission has an obligation to protect First Amendment rights. So, unless the Department can demonstrate that there is a need for them, the Commission should have a commitment from the Department that these tapes would not be used in any way, (in protection) of First Amendment rights.

Assistant Chief Fagan stated that the Commission has that commitment.

Commissioner Perry announced that the Commission will hold a Special Commission Meeting on Tuesday, March 18, 2003, at 3:00 p.m. She then read the following statement:

"Chief Sanders told us that he has terminated the suspension of Assistant Chief Fagan in light of the District Attorney's decision to dismiss the indictment against Chief Fagan. The Chief has also informed us that Chief Fagan will remain in his position as Assistant Chief and will manage the day-to-day operations of the Department in consultation with Chief Sanders. The Commission will hold a special meeting on Tuesday, March 18th, at 3:00 p.m., to vote on a resolution that would designate the hiring of an unbiased individual or entity outside the Department to investigate and report on both the incident of November 20, 2002 and the Department's investigation of that incident. The Commission Secretary will post and distribute the agenda for that meeting tomorrow.

The Commission wishes to assure the public that it will be vigilant in

its oversight of the Department to ensure that necessary measures are taken to maintain the public's confidence in the Department and to ensure that the Department can continue to perform its core mission of protecting the public."

PUBLIC COMMENTS

Mark Schlosberg, ACLU, discussed a 15-page report submitted to the Commission asking for more accountability in the Police Department.

Ishmael Tarikh, Bay Area Police Watch, asked the Commission to consider four issues: (1) to reopen the investigation of the shooting of Gregory Hooper by off duty officer Steve Lee. (2) Pass a resolution for a City Charter change that enables the Board of Supervisors to appoint at least two members of the Police Commission. (3) Pass a San Francisco Police Commission resolution on a creation of a "blue desk" housed within the district attorney's office that would exercise jurisdiction over allegations of criminal police misconduct. (4) Provide "whistle blower" protection as a directive to the Chief of Police.

Barry Toronto, cab driver, commended Deputy Chief Fong and Commander Harper for their assistance in previous matters. He asked the Commission to investigate a police captain's wife who has a cab medallion preventing hard working drivers from obtaining one.

Unidentified said that he has spoken to the new media regarding police assault.

Jason Hanson condemned District Attorney Hallinan for charging officers with crimes he knew was not sustained. He wanted to apologize to the officers involved.

Julian Hill, OFJ President, addressed the Commission and welcomed back Assistant Chief Fagan and gave support to the command staff still under indictment.

DISPOSITION ON DISCIPLINARY CHARGES FILED AGAINST INSPECTOR HENRY L. KIRK, GENERAL WORKS, (FILE NO. C01-411 GRN)

Put over to April 9, 2003.

HEARING AND DISPOSITION ON DISCIPLINARY CHARGES FILED AGAINST OFFICER ROY MICHAEL RAMOS, BAYVIEW (FILE NO. C02-273 JWA)

Put over to April 16, 2003

Thereafter, the meeting was adjourned at 6:15 p.m.

Lt. Edward Geeter, #1273
Lieutenant Edward Geeter
Secretary
THE POLICE COMMISSION

1273/rct

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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

SPECIAL MEETING
TUESDAY, MARCH 18, 2003
3:00 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

1. Pledge of Allegiance
2. Roll Call
3. Public Comment on Items 4 through 6.
4. Vote to elect whether to meet in closed session under California Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d)
5. Closed Session pursuant to Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d):

   CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
   (Discussion Item)

   Number of potential cases: 1 as Defendant
6. Closed Session pursuant to Government Code Section 54957 and San Francisco Administrative Code Section 67.10(b):

   PUBLIC EMPLOYEE PERFORMANCE EVALUATION/RELEASE/DISMISSAL:
   Chief of Police Earl Sanders (Action Item)
7. Reconvene in open session: Roll Call and

   a. Possible report on action taken, if any, in Closed Session (Government Code Section 54957.1(a) and San Francisco Administrative Code Section 67.12(b)) (Action Item)

   b. Vote to elect whether to disclose any or all discussions held in Closed Session. (San Francisco Administrative Code Section 67.12(a).) (Action Item)

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SPECIAL MEETING
TUESDAY, MARCH 18, 2003
3:00 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

8. Discussion and possible action to direct the Chief of Police, acting through Deputy Chief Heather Fong, to: (1) Prepare a list of recommended individuals or entities to conduct an independent, unbiased and thorough inquiry into both the November 20, 2002 incident involving Officers Matthew Tonsing, David Lee, and Alex Fagan, Jr., and the Department's investigation of that incident, and to present a comprehensive, written report of the results of the inquiry to Deputy Chief Heather Fong and the Police Commission; (2) Consult with the President of the Police Commission regarding the selection of an individual or entity from such list; and (3) Take all steps necessary to expeditiously negotiate and execute a contract with the selected individual or entity. (Action Item)

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KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

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Lobbyist Registration and Reporting Requirements
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SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

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Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

MARCH 18, 2003 **SPECIAL MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 3:15 p.m., in a Special Meeting.

PRESENT: Commissioners Perry, Makras, Friday, Quaranta
ABSENT: Commissioner Chan

PUBLIC COMMENTS

None

VOTE TO ELECT WHETHER TO MEET IN CLOSED SESSION UNDER CALIFORNIA GOVERNMENT CODE SECTION 54956.9 AND SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.10(d)

Commissioner Quaranta made a motion to meet in Closed Session. The motion was second by Commissioner Makras. Approved 4-0.

CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION 54956.9 AND SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.10(d):

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Discussion Item)

Number of Potential cases: 1 as Defendant

CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION 54957 AND SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.10(b):

PUBLIC EMPLOYEE PERFORMANCE EVALUATION/RELEASE/DISMISSAL: Chief of Police Earl Sanders (Action Item)

RECONVENE IN OPEN SESSION:

PRESENT: Commissioners Perry, Makras, Friday, Quaranta
ABSENT: Commissioner Chan

a. **Possible report on action taken, if any, in Closed Session (Government Code Section 54957.1(a) and San Francisco Administrative Code Section 67.12(b)) (Action Item)**

Commissioner Makras made a motion not to discuss action taken in Closed Session. The motion was second by Commissioner Friday. Approved 4-0.

b. **Vote to elect whether to disclose any or all discussions held in Closed Session. (San Francisco Administrative Code Section 67.12(a).) (Action Item)**

Commissioner Makras made a motion not to disclose action taken in Closed Session. Motion was second by Commissioner Quaranta. Approved 4-0.

DISCUSSION AND POSSIBLE ACTION TO DIRECT THE CHIEF OF POLICE, ACTING THROUGH DEPUTY CHIEF HEATHER FONG, TO: (1) PREPARE A LIST OF RECOMMENDED INDIVIDUALS OR

ENTITIES TO CONDUCT AN INDEPENDENT, UNBIASED AND THOROUGH INQUIRY INTO BOTH THE NOVEMBER 20, 2002 INCIDENT INVOLVING OFFICERS MATTHEW TONSING, DAVID LEE, AND ALEX FAGAN, JR., AND THE DEPARTMENT'S INVESTIGATION OF THAT INCIDENT, AND TO PRESENT A COMPREHENSIVE, WRITTEN REPORT OF THE RESULTS OF THE INQUIRY TO DEPUTY CHIEF HEATHER FONG AND THE POLICE COMMISSION; (2) CONSULT WITH THE PRESIDENT OF THE POLICE COMMISSION REGARDING THE SELECTION OF AN INDIVIDUAL OR ENTITY FROM SUCH LIST; AND (3) TAKE ALL STEPS NECESSARY TO EXPEDITIOUSLY NEGOTIATE AND EXECUTE A CONTRACT WITH THE SELECTED INDIVIDUAL OR ENTITY. (ACTION ITEM)

Commissioner Makras made a motion to direct Deputy Chief Heather Fong to prepare a list of recommendations and a budget and report back to the Commission. The motion was second by Commissioner Quaranta, who presented a list of several names to add to those being considered. The motion was approved 4-0.

List of names presented by Commissioner Quaranta:

Herb Donaldson, Former Judge
Cruz Reynoso, Former CA Sup. Court
Joe Russonello, Former US Attorney
Joe MacNamara, Former Chief of Police
Joseph Freitas, Former District Attorney
Louise Renne, Former City Attorney

PUBLIC COMMENTS:

Mark Schlosberg, ACLU, welcomed the idea of an independent investigation. He suggested that the community be allowed to make recommendations and that the selection be debated in public.

Thereafter, the meeting was adjourned at 4:20 p.m.

Lt. Edward Geeter, #1273
Lieutenant Edward Geeter
Secretary
THE POLICE COMMISSION

1273/rct

Excerpts from the San Francisco Police Commission Special Meeting of March 18, 2003:

Item #8: Discussion and possible action to direct the Chief of Police, acting through Deputy Chief Heather Fong, to: (1) Prepare a list of recommended individuals or entities to conduct an independent, unbiased and thorough inquiry into both the November 20, 2002 incident involving Officers Matthew Tonsing, David Lee, and Alex Fagan, Jr., and the Department's investigation of that incident, and to present a comprehensive, written report of the results of the inquiry to Deputy Chief Heather Fong and the Police Commission; (2) Consult with the President of the Police Commission regarding the selection of an individual or entity from such

list; and (3) Take all steps necessary to expeditiously negotiate and execute a contract with the selected individual or entity. (Action Item)

COMMISSIONER PERRY: Is there any discussion on that item? Commissioner Makras?

COMMISSIONER MAKRAS: I would move that the Commission is committed to an investigation on the investigation and that we've instructed Commander (sic) Fong to bring us recommendations and also a budget and that that is not available today from a time perspective and that we continue to the call of the chair of this item to allow Heather Fong the opportunity to assemble names, strengths of the individuals to make the investigation, and an appropriate budget for that item.

COMMISSIONER PERRY: Is there a second to that?

COMMISSIONER QUARANTA: Yes. I went ahead to gather a few names to give to Deputy Chief Fong and the motion.

COMMISSIONER PERRY: Okay. Is there any public comment before we vote on the item?

MR. SCHLOSBERG: Yes. First of all, I didn't hear what the amendment was to the –

COMMISSIONER PERRY: He said he had a few names that he would want to add to that list.

MR. SCHLOSBERG: Oh, okay. Mark Schlosberg with the American Civil Liberties Union. Members of the Commission, Command Staff, Chiefs, OCC, members of the public: The ACLU welcomes an independent analysis of this, of the issues that came up stemming from the Union Street incident and subsequent investigation. The item that's on the agenda calls for an independent and unbiased entity. I should note that the Office of Citizen Complaints, established by the City Charter as an independent, unbiased entity, has been reported to have already opened an inquiry into incident. However, we understand the need and the concern by this Commission for an independent entity outside of the City of San Francisco to be investigating this as well. However, I would urge you that if you are going to select an entity outside of the City of San Francisco to conduct an inquiry into this incident, that the purpose be to evaluate the systemic problems within the accountability mechanisms of the San Francisco Police Department.

These failures of accountability and these serious accountability problems and systemic problems have been documented both in the – in numerous media reports and in a report which we recently issued detailing some breakdowns in accountability mechanisms and proposing steps that should be taken to strengthen accountability mechanisms in the San Francisco Police Department.

The choice of the entity should be publicly decided and it should be solicited with input from the public. I hope that Deputy Chief Fong will be soliciting input from members of the – members of the public including civil rights and community organizations that have a strong interest and a long standing interest in police accountability in San Francisco. Further, the decision about who the entity that is going to be chosen should be made by the Commission in a public forum so that the public can have a chance to comment on whether or not the entity which is being under consideration is in fact a reliable and independent, and unbiased entity.

Further, it's extremely important that this agency that is chosen not be an internal affairs department of another police department which has been floated in a previous newspaper article. I don't remember – somebody talked about the Oakland Internal Affairs Division. Selecting an entity such as an internal affairs department from another police department would send a completely opposite message that should be sent

of independence and accountability here in San Francisco.

Finally, I would urge this Commission to take a strong look at the accountability mechanisms and expand this inquiry and to agendize the item of police accountability and accountability reforms for a subsequent meeting. I should note that the Board of Supervisors has already begun such an inquiry asking – sending letters and asking questions both of the Police Department, the OCC, and other entities within the City of San Francisco.

These are questions that this Commission should be asking and this Commission should have been asking. This Commission should not wait for the Board of Supervisors to ask these very important questions regarding oversight. This Commission should take action and decide to agendize the issue of police accountability and reforms within the police accountability mechanisms for a subsequent hearing in the near future. Thank you.

COMMISSIONER PERRY: Is there any other public comment on this item? Okay. All in favor of the motion?

COMMISSIONERS MAKRAS, FRIDAY, QUARANTA: Aye.

COMMISSIONER PERRY: Opposed? Okay. The motion passed. The meeting is adjourned.

The San Francisco Police Commission and the Officers of Ingleside Station invite you to attend

A Special Meeting of the Police Commission
Wednesday, March 19, 2003
6:00 PM

Ingleside Police Station Community Center
#1 Sgt. John V. Young Lane

This is your opportunity to address the governing body of the San Francisco Police Department. Residents of the Ingleside District are invited to voice their concerns directly to the Commissioners.

Captain Kevin Dillon will present a

"State of the District Report"

A public comment period will follow.

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SAN FRANCISCO POLICE COMMISSION AGENDA
REGULAR MEETING
WEDNESDAY, MARCH 19, 2003
6:00 p.m.

INGLESIDE DISTRICT
INGLESIDE STATION COMMUNITY ROOM
#1 John V. Young Lane
San Francisco

1. Pledge of Allegiance
2. Roll Call
3. Approval of Minutes for the Meetings of February 28, 2003, March 3rd and 5, 2003
4. Police Commission Announcements
   a. Motion of Calendaring of New Items
5. Chief's Announcements and Review of Recent Department Events
6. OCC Director's Report re: Staffing, Budget and Summary of Recent Events
7. Captain Kevin Dillon, Commanding Officer of Ingleside Station, to address the Commission on Police Activities in the Ingleside District
8. Public Comments
   (Members of the public may address the Commission for up to 3 minutes for individuals or up to 5 minutes for groups. The President of the Commission may limit the total testimony time.)

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The proceeding will be held at: Ingleside Police Station, #1 John Young Lane, San Francisco

Accessible MUNI lines serving this location is: J, K, and M Streetcars, #26 Valencia, 54 Felt
For information about MUNI service call 923 6142

The closest BART Station is: Balboa Station

Accessible parking #1 John Young Lane

For information about the meeting call (415)553-1667 **(v) or** 553-9194 **(tty)**

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, MARCH 26, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

1. Pledge of Allegiance
2. Roll Call
3. Approval of Minutes for Police Commission Meetings of March 12th, and 18, 2003
4. Approval of Consent Calendar
5. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Officer Alex E. Fagan, Jr., Support Services (File No. C03-093 JWA)
6. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Officer Matthew P. Tonsing, Support Services (File No. C03-094 JWA)
7. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Officer David A. Lee, Staff Services (File No. C03-093 JWA)
8. Police Commission Announcements
   a. Motion of Calendaring of New Items
9. Chief's Announcements and Review of Recent Department Events
10. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
11. Public Comments
    (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)
12. Disposition on Disciplinary Charges filed against Officer Laurence B. Barker, Support Services (File No. C01-118 JWA0

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, MARCH 26, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

CONSENT CALENDAR

1. Request of the Chief of Police for Approval to Accept a Donation of a Smith & Wesson Breaktop .38 5-shot Revolver, Serial No. 143792, valued at approximately $175.00, from Mr. James Hodgen, for the Department's Collection of Antique Firearms

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MARCH 26, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

APPROVAL OF MINUTES FOR POLICE COMMISSION MEETINGS OF MARCH 12TH AND 18, 2003

Commissioner Chan made a motion to approve the Police Commission minutes for the meetings of March 12th and 18, 2003. The motion was second by Commissioner Friday.

PUBLIC COMMENTS re: Minutes

Mark Schlosberg, ACLU, asked the Commission if the minutes could be changed to reflect his exact words.

Lieutenant Geeter, Commission Secretary, stated that he takes notes on each speaker and he could not take every word each speakers said. Lt. Geeter stated that public comments are recorded on tape and if the exact words are needed, the tapes are available.

The motion for approval of minutes was approved. 5-0.

APPROVAL OF CONSENT CALENDAR

Commission Chan made a motion to approve the Consent Calendar. Second by Commissioner Quaranta. Approved 5-0.

RESOLUTION NO. 15-03

APPROVAL OF THE REQUEST OF THE CHIEF OF POLICE TO ACCEPT A DONATION OF A SMITH & WESSON BREAKTOP .38 5-SHOT REVOLVER, SERIAL NO. 143792, VALUED AT APPROXIMATELY $175.00, FROM MR. JAMES HODGEN, FOR THE DEPARTMENT'S COLLECTION OF ANTIQUE FIREARMS

RESOLVED, that the Police Commission hereby approves request of the Chief of Police to accept a donation of a Smith & Wesson Breaktop .38 5-shot revolver, Serial No. 143792, valued at approximately $175.00, from Mr. James Hodgen, for the Department's collection of antique firearms.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

RESOLUTION NO. 16-03

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST OFFICER ALEX E. FAGAN, JR., SUPPORT SERVICES (FILE NO. C03-093 JWA)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Officer Alex E. Fagan, Jr., Star No. 1942, Support Services, was called it having been set for this date; and

WHEREAS, Commissioner Sidney Chan is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Alex E.

Fagan, Jr.; therefore be it

RESOLVED, that Commissioner Sidney Chan is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Alex E. Fagan, and is to be set at a later date.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

RESOLUTION NO. 17-03

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST OFFICER MATTHEW P. TONSING, SUPPORT SERVICES (FILE NO. C03-094 JWA)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Officer Matthew P. Tonsing, Star No. 4117, Support Services, was called it having been set for this date; and

WHEREAS, Commissioner Sidney Chan is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Matthew P. Tonsing; therefore be it

RESOLVED, that Commissioner Sidney Chan is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Matthew P. Tonsing, and is to be set at a later date.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

RESOLUTION NO. 18-03

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST OFFICER DAVID A. LEE, STAFF SERVICES (FILE NO. C03-097 JWA)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Officer David A. Lee, Star No. 243, Staff Services, was called it having been set for this date; and

WHEREAS, Commissioner Sidney Chan is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer David A. Lee; therefore be it

RESOLVED, that Commissioner Sidney Chan is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer David A. Lee, and is to be set at a later date.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

Commissioner Chan directed Lt. Geeter, Commission Secretary, to schedule a conference with the officers' attorneys by Wednesday.

Attorney Jerry Akins, MCD, advised Commissioner Chan that a conference is being discussed.

POLICE COMMISSION ANNOUNCEMENTS

a. Motion Calendaring of New Items

Mark Schlosberg, ACLU, asked the Commission to schedule a hearing

on police accountability, an issue that he had brought to the Commission's attention previously.

Commissioner Perry stated that she had informed Mr. Schlosberg prior to the meeting that it was her intention to meet with his group, the OCC, the Department, Mr. Tarikh, and a member of the Commission to discuss these issues. Commissioner Perry stated that she felt that it was premature to hold hearings at this time and that a hearing might not be necessary.

Mr. Mark Schlosberg, ACLU, stated that he felt that the Commissionw as in violation of the Sunshine Act when he was not allowed to be in a room where more than three Commissioners are present.

Commissioner Chan told Mr. Schlosberg that he takes exception to his comments stating that when the Commissioners get together, they sometimes discuss personal things, friendship, etc. and that he would have to believe that they are honorable enough not to talk business when two or three of them are together and that it's absurd to think that when the meeting is over that they must all walk away in five different directions. That is not going to happen.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Assistant Chief Fagan reported on the anti-war demonstration and the arrest of approximately 2000 protestors. He complimented Deputy Chief Bruce, Commander Puts and Commander Hom for the training and planning to police the events. Chief Fagan also stated that he has met with Supervisor Gonzalez and hopes to schedule additional meetings to discuss the problems incurred during the five days of demonstrations. The Chief further stated that he and Deputy Chief Bruce had planned to remain at the Board of Supervisors meeting and listen to public comments but due to the lateness of the hour, some time after 10 p.m., they could not stay to hear citizens comments.

Assistant Chief Fagan also reported that the Department had made some changes in dignitary protection procedures, an issue in which the OCC have some concerns. Chief Fagan stated that Captain Yalon, Traffic, will make a report to the Commission at the next meeting.

Acting Deputy Chief Dudley reported that the City had five homicides since Saturday, March 22nd, and that one arrest had been made for one incident. Also, that the Homicide Unit, Gang Task Force, Narcotics Unit, and District Stations officers are working hard on the investigation.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Ms. Donna Medley, Acting OCC Director, updated the Commission on their investigation into the incident of November 20th involving three off duty officers. She stated that for four months, OCC has not received the information they had requested from the Department.

Lieutenant Keohane, Legal Division, reported that the Legal Division has advised the OCC that the District Attorney has advised the Department not to release any information to the OCC regarding the incident and that releasing the information could jeopardize the criminal investigation. He stated that Deputy Chief Fong is scheduling a meeting with our Legal Division, the District Attorney's office, the City Attorney, and the OCC in hopes to come to an agreement of what can be released.

Commissioner Makras asked if it is the procedure of the Department not to release certain documents until the criminal investigations has been

completed. Lieutenant Keohane stated that yes, it is the policy of the Legal Department and also the policy of the Management Control Division. Commissioner Makras asked if the OCC was aware of this policy. Lieutenant Keohane said yes.

Assistant Chief Fagan reiterated that Deputy Chief Fong, the Legal Division, District Attorney's Office, City Attorney's Office, and the OCC will meet and hopefully come to an agreement of what can be released, hopefully by next week.

Commissioner Perry directed the Commission Secretary Lt. Geeter to place on the Commission calendar for next week's meeting discussion and action on the issue described by the OCC.

Mr. Mark Schlosberg, ACLU, stated that he was alarmed by the questions put by the OCC of why the department have not provided documents requested, which is mandated by City Charter. He also stated that he is please that the Commission will put the issue on next week's agenda for discussion.

Commissioner Friday announced that he did watch the citizens comments at the Board of Supervisors meeting. He stated that there were numerous criticisms and complaints about the Police Department, and some of them might be justified. He said that he spent a lot of time on the streets in the past few days and he wanted to say thank you to Assistant Chief Fagan, Deputy Chiefs Bruce and Pengel for the great job they are doing and that he is proud of them and the Department.

PUBLIC COMMENTS

Ishmael Tarikh, Bay Area Police Watch, stated that he has received more than 80 calls of complaints against the police regarding constitutional rights being violated. He also stated that during the demonstration, from his window, he saw police officers on duty playing football.

Commissioner Perry ended the public comments when Mr. Tarikh refused to leave the podium after his three- minute time limit expired.

Public Comments resumed after a 10-minute break.

Julio Laloya, spoke through a Spanish interpreter, wanted to denounce the actions of Captain Corrales in dealing with day laborers in the Mission District.

Unidentified, spoke through a Spanish interpreter, asked that Captain Corrales be dismissed for violating day laborers' rights.

Unidentified, spoke through a Spanish interpreter, spoke against Captain Corrales.

Francisco Alitorria spoke against Captain Corrales.

Mark Injamargio, Building Management Association, thanked the police for keeping the City safe during the past days.

Unidentified, Financial District high rise manager, thanked the police department for doing an excellent job in policing the anti-war demonstrations.

Linda Farso, business woman, thanked the Department for doing a good job during the anti-war demonstrations.

Mariam, Filipino community, asked the Department for reforms and asked that the police work more closely with the minority community.

Rudy Ascencion spoke regarding the homicide of Mr. Vicente Pascua, the 81-year old veteran who was robbed and killed. He asked the Commission to put this case as a high-priority case.

Tercsita Bautista, Filipino Civil Rights Advocate, advised the Commission of outrage by the Filipino community regarding the arrest of Mr. Rodel Rodis, an elected city official, for allegedly passing a counterfeit $100

bill, which was legitimate.

Commissioner Chan excused himself.

Adam Campbell, SF Shopping Center General Manager, thanked the Police Department, in particular Commander Puts and Captain Davenport, for a job well done during the anti-war demonstrations.

Frank Martin Del Campo, Local 790 Representative, wanted to support Ms. Rene Salsido who was criticized last week by day laborers.

Unidentified spoke against the letter read to the Commission against Captain Corrales. He stated that day laborers just want to work and are not interested in fighting with Captain Corrales.

Unidentified, spoke through a Spanish interpreter, stated that Ms. Salsido wants to fight with Captain Corrales and stated that Ms. Salsido offers the workers juices and ask them to sign a letter against Captain Corrales.

Mike Villitiono commended the work of Captain Corrales and spoke against Ms. Salsido. He stated that she lost the contract to operate the Day Labor Program and hopefully now the day laborers can get jobs.

Helen Bautista, Filipino community representative, spoke regarding the treatment of Mr. Rodel Rodis and asked that we should go back to the ABCs on how to treat our citizens.

Marivic Bonva, Filipino community representative, spoke regarding the incident involving Rodel Rodis. She stated he was wrongly detained over a legal $100 bill. She suggested that the police be given sensitivity training.

Jeff Gecontero spoke in favor of the day laborers and against Captain Corrales.

Joe Vacarro spoke on the issue of day laborers and stated that Captain Corrales was doing a good job for the community.

Rosalie Rojas spoke on the issue of the anti-war demonstrations and stated that she was arrested for just standing on the sidewalk.

Sara Shafter spoke regarding day laborers and in support of Ms. Salsido.

Ella Kugler spoke regarding day laborers and against Captain Corrales for not reaching out to the community.

Unidentified spoke on the issue of how the police dealt with transgender persons during the anti-war demonstrations.

Unidentified spoke regarding day laborers and asked that Captain Corrales be replaced.

Jennie Gallegos spoke on the issue of day laborers and asked that Captain Corrales be removed.

Marcia Perez spoke regarding day laborers program and against Captain Corrales. She also stated that she was ordered by police during the anti-war demonstration to go back into her building when she went outside to observe the police actions.

Catherine Pion, anti-war demonstrator, stated she and her friends were arrested without cause during the demonstration.

Ms. Latton spoke against the Commission on how Mr. Tarikh was treated. She also spoke on the issue of how the people in Iraq are being brutalized.

Tanya Cohen stated that she was one of 100 people who were arrested illegally during the demonstrations just by standing on the sidewalk.

HEARING OF OFFICER LAURENCE B. BARKER, SUPPORT SERVICES (FILE NO. C01-118 JWA)

The hearing of Police Officer Laurence B. Barker, Star No. 1040, Support Services, was called it having been set for this date. Officer Barker was charged, in a properly verified complaint by Fred H. Lau, Former Chief of Police of the San Francisco Police Department, with violating the Rules and Procedures as follows:

SPECIFICATION NO. 1

Left his assigned post without authorization (violation of Rule 44 of Department General Order 2.01 of the San Francisco Police Department);

SPECIFICATION NO. 2

Using position as police officer to procure personal privilege (violation of Rule 45 of Department General Order 2.01 of the San Francisco Police Department);

SPECIFICATION NO. 3

Unauthorized use of department property, conduct which undermines the good order and discipline of the department and which brings discredit on the department (violation of Rules 9 and 23 of Department General Order 2.01 of the San Francisco Police Department);

Mr. Jerry W. Akins, Attorney at Law, appeared on behalf of the San Francisco Police Department.

Officer Laurence B. Barker appeared in person and was represented by Mr. Earl Disselhorst, Attorney at Law.

Officer Barker admitted to the truth of the allegations contained in Specifications No. 1, 2, and 3 and accepts responsibility for his actions.

The Police Commission unanimously accepted the plea of Officer Barker.

Based on Officer Barker's admission, the Commission requested a recommendation from Assistant Chief of Police Alex Fagan.

It is the recommendation of Assistant Chief of Police Alex Fagan that Officer Laurence B. Barker be suspended for ninety (90) days (thirty (30) days on each specification) with forty-five (45) days imposed forthwith and forty-five (45) days held in abeyance for one (1) year on the following condition that he not engage in any serious acts of misconduct.

The Commission took the matter under submission and the following resolution was adopted:

RESOLUTION NO. 19-03

DECISION - HEARING OF OFFICER LAURENCE B. BARKER, SUPPORT SERVICES (FILE NO. C01-118 JWA)

WHEREAS, on February 1, 2002, Fred H. Lau, Former Chief of Police of the San Francisco Police Department, made and served charges against Officer Laurence B. Barker, as follows:

SPECIFICATION NO. 1:
Left his assigned post without authorization (violation of Rule 44 of Departmcnt General Order 2.01).

(1) At all times herein mentioned, Laurence B. Barker, Star No. 1040, (hereinafter referred to as "the accused") was and is a police officer employed by the San Francisco Police Department and assigned to the Airport Bureau, but is now assigned to the Support Services Division;

(2) As a police officer, the accused was and is responsible for knowing and obeying the rules, orders, and procedures of the San Francisco Police Department;

(3) On or about March 18, 2001, the accused was on duty in uniform assigned to patrol duties at the San Francisco International Airport. Without the knowledge or permission of his supervisors, the accused left the Airport and drove to the Target store located in the Tanforan Shopping Center in San Bruno, California. The accused was not conducting any police business in making this trip;

(4) On March 30, 2001, the accused was on duty in uniform assigned to patrol duties at the San Francisco International Airport. Without the knowledge or permission of his supervisors, the accused again left the Airport and drove to the Target store located in the Tanforan Shopping Center in San Bruno, California. The accused was not conducting any police business in making this trip;

(5) On or about April 5, 2001, the accused was on duty in uniform assigned to patrol duties at the San Francisco International Airport. Without the knowledge or permission of his supervisors, the accused again left the Airport and drove to the Target Store located in the Tanforan Shopping Center in San Bruno, California;

(6) On or about April 13, 2001, the accused was on duty in uniform assigned to patrol duties at the San Francisco International Airport. Without the knowledge or permission of his supervisors, the accused yet again left the Airport and drove to the Target Store located in the Tanforan Shopping Center in San Bruno, California;

(7) On or about April 19, 2001, the accused was on duty in uniform assigned to patrol duties at the San Francisco International Airport. Without the knowledge or permission of his supervisors, the accused left the Airport and drove to the Target Store located in the Tanforan Shopping Center in San Bruno, California. The accused was not conducting any police business in making this trip;

(8) On or about April 22, 2001, the accused was on duty in uniform assigned to patrol duties at the San Francisco International Airport. Without the knowledge or permission of his supervisors, the accused again left the Airport and drove to the Target Store located in the Tanforan Shopping Center in San Bruno, California. The accused was not conducting any police business in making this trip;

(9) Rule I-A-1-a of Department General Order 1.03 states:

"I. POLICY
A. Patrol Officers shall:

1. RADIO CONTACT AND NOTIFICATION
a. Patrol their assigned areas and remain in constant radio contact, except in case of emergency, detail or assignment."

(10) Rule-I-A-2-a of Department General Order 1.03 states:

"I. POLICY
A. Patrol Officers shall:
2. REMAINING IN ASSIGNED AREAS
a. Not leave their assigned area except in the performance of proper police duty with the permission of a superior officer, or for personal necessity."

(11) The accused neglected his duties by leaving his assigned patrol area without permission on at least six occasions; any reasonable police

officer must know that such conduct would be cause for discipline or dismissal, and the accused's conduct in this report violated Rule 44 of Department General Order 2.01 of the San Francisco Police Department, which states:

"44. LEAVING ASSIGNED POSTS. Members shall not leave their assigned posts unless relieved, to take action in a serious matter, for personal necessity, or with a supervisor's permission."

SPECIFICATION NO. 2
Using position as police officer to procure personal privilege (violation of Rule 45 of Department General Order 2.01 of the San Francisco Police Department);

(12) Paragraphs 1 through 11 from Specification No. 1 above are incorporated herein by reference and realleged as though set forth in full;

(13) During the week of March 18-24, 2001, when the accused drove the department vehicle to the Target Store located at the Tanforan Shopping Center as alleged in paragraph 3 above, the accused contacted a customer service employee inside the Target Store and informed her that he had purchased a movie on DVD titled "Risky Business" and that when he opened the container, the DVD disk was missing. Although it was against the store's policy, since the accused was in uniform, the employee instructed the accused to get another copy of "Risky Business" from the floor and return with it to the customer service counter to make the exchange. When the accused returned to the customer service counter, he said that he could not find "Risky Business," so he selected one with the same price entitled "Nurse Betty" and the clerk permitted him to take that movie in exchange for the "empty box" he claimed to have received labeled "Risky Business;"

(14) On March 30, 2001, when the accused drove the department vehicle to the Target Store located at the Tanforan Shopping Center as alleged in paragraph 4 above, the accused contacted a customer service employee inside the Target Store and informed her that he had purchased a movie on a DVD, (when interviewed by MCD, he could not remember the title), and that when he opened the container, the DVD disk was missing. Although it was against the store's policy, since the accused was in uniform, the employee instructed the accused to get another copy of the movie from the floor and return with it to the customer service counter for exchange. When the accused returned to the customer service counter, he said that he could not find the same movie, so he selected one with the same price entitled "Seven" and the clerk permitted him to take that movie in exchange for the "empty box" he claimed to have received for the other movie;

(15) On April 5, 2001, when the accused drove the department vehicle to the Target Store located at the Tanforan Shopping Center as alleged in paragraph 5 above, the accused contacted a customer service employee inside the Target Store as alleged in paragraph 5 above, the accused contacted a customer service employee inside the Target Store and informed her that he had obtained the movie on a DVD titled "Seven" and that when he opened the container at home, the DVD disk was missing. Again, although it was against the store's policy, since the accused was in uniform, the employee instructed the accused to get another copy of "Seven" from the floor and return with it to the customer service counter for an exchange. When the accused returned to the customer service counter, he said that he could not find the "Seven" movie, so he selected one with a lesser price and the clerk permitted him to take that movie in exchange for the "empty box" he claimed to have received labeled "Seven" and he was credited with the

difference in price. In his interview with the Management Control Division, the accused stated that he believes that the DVD disk for the movie "Seven" was removed from the box on March 30, 2001, while his unlocked marked patrol vehicle was parked in the Safeway parking lot in Millbrae. At that time the accused stated that his DVD player and a plastic bag of disks was stolen from the police vehicle;

(16) On April 13, 2001, when the accused drove the department vehicle to the Target Store located at the Tanforan Shopping Center as alleged in paragraph 6 above, the accused contacted a customer service employee inside the Target Store and presented the clerk with a DVD movie still sealed in its package and asked to exchange it for another movie. This time the clerk followed the store's policy and refused to make the exchange since the accused did not have a receipt. The accused left the store without conducting any other business;

(17) On April 19, 2001, when the accused drove the department vehicle to the Target Store located at the Tanforan Shopping Center as alleged in paragraph 7 above, the accused contacted a customer service employee inside the Target Store and again presented the clerk with a DVD movie still sealed in its package and asked to exchange it for another movie. The clerk contacted a store supervisor, who informed the accused that the exchange could not be made since the accused did not have a receipt. The accused left the store without conducting any other business;

(18) On April 22, 2001, when the accused drove the department vehicle to the Target Store located at the Tanforan Shopping Center as alleged in paragraph 8 above, the accused contacted a customer service employee inside the Target Store and presented the clerk with a DVD movie still sealed in its package and asked to obtain a refund for the price of the DVD movie. The clerk informed the accused that the refund could not be made since the accused did not have a receipt. The accused left the store without conducting any other business;

(19) The accused engaged in conduct unbecoming an officer by leveraging his position as a police officer to induce, and to attempt to induce, employees of the Target Store to violate their company policy and treat the accused differently than they treat other people they do business with on at least six (6) occasions (March 18, 2001, March 30, 2001, April 5, 2001, April 13, 2001, April 19, 2001, and April 22, 2001); any reasonable police officer must know that such conduct violates the standards of the department and is cause for discipline or dismissal from employment; therefore, such conduct violates Rule 45 of Department General Order 2.01, which states:

"45. SECURING PERSONAL PRIVILEGES. Members shall not use or attempt to use their official positions for securing personal privileges beyond what is authorized by law, or for avoiding the consequences of illegal conduct."

SPECIFICATION NO. 3

Unauthorized use of department property, conduct which undermines the good order and discipline of the department and which brings discredit on the department (violation of Rules 9 and 23 of Department General Order 2.01 of the San Francisco Police Department);

(20) Paragraphs 1 through 11 from Specification No. 1 above are incorporated herein by reference and realleged as though set forth in full;

(21) On each of the six (6) occasions (March 18, 2001, March 30, 2001,

April 5, 2001, April 13, 2001, April 19, 2001, and April 22, 2001 that the accused drove his marked department vehicle to the Target Store in the Tanforan Shopping Center as alleged in Specification No. 1, the accused was using department property for an unauthorized purpose;

(22) Rule 40 of Department General Order 2.01 states:

"40. PERSONAL BUSINESS. Members shall not, while on duty, engage in personal business or in any other activity that would cause them to be inattentive to duty."

(23) Rule 23 of Department General Order 2.01 states:

"23. USE OF DEPARTMENT PROPERTY. Members shall use Department property according to Department policies and procedures. Members shall use and operate Department vehicles and equipment in a reasonable and prudent manner and not allow unauthorized persons in police vehicles or allow them to use Department equipment. Authorization under special circumstances may be granted by a superior officer."

(24) The accused, by improperly using department marked patrol cars for his own purposes while exchanging and attempting to exchange DVD movies; any reasonable police officer must know that such conduct brings discredit on the department and undermines good order, efficiency and discipline of the department and is cause for discipline or dismissal from employment; therefore, such conduct violates Rule 9 of Department General Order 2.01, which states:

"MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct by an officer either within or without the State that tends to undermine the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, although not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."

WHEREAS, a hearing on said charges was held before the Police Commission pursuant to Appendix A. Section A 8.343 of the Charter of the City and County of San Francisco on March 26, 2003, where the matter was submitted to the Police Commission for decision; and

WHEREAS, based on Officer Laurence B. Barker's admission, the Commission finds the allegations contained in Specifications No. 1, 2, and 3 of the disciplinary charges as preferred by Former Chief of Police Fred H. Lau against Officer Barker are sustained; and the Commission adopts the sustained specifications as its findings in this matter; therefore be it

RESOLVED, that based on these findings, consistent with the Commission's duty to protect the health, safety, and general welfare of the citizens of the City and County of San Francisco and the public in general, and in order to promote efficiency and discipline in the San Francisco Police Department, the Police Commission orders the following discipline be imposed:

SPECIFICATION NO. 1	Sustained
SPECIFICATION NO. 2	Sustained
SPECIFICATION NO. 3	Sustained

That Officer Laurence B. Barker be suspended for ninety (90) days (thirty (30) days on each specification) with forty-five (45) days imposed

forthwith and forty-five (45) days held in abeyance for one (1) year on the following condition that he not engage in any serious acts of misconduct.

FURTHER RESOLVED, that said forty-five (45) days suspension imposed shall commence on Thursday, March 27, 2003, at 0001 hours, and terminate on Monday, May 12, 2003, at 2400 hours.

If this decision is subject to review under Code of Civil Procedure section 1094.5, then the time and within which judicial review must be sought is governed by California Code of Civil Procedure, section 1094.6.

AYES: Commissioners Perry, Makras, Friday, Quaranta
ABSENT: Commissioner Chan

Thereafter, the meeting was adjourned at 7:45 p.m.

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, APRIL 2, 2003
5:00 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 505-2
San Francisco, California

CLOSED SESSION

1. Roll Call

2. Public Comments on all matters pertaining to the Closed Session

3. Vote on whether to hold Closed Session and/or assert Attorney/Client Privilege to confer with Legal Counsel. (San Francisco Administrative Code Section 67.11(a))

4. Closed Session held pursuant to Government Code 54956.9 and San Francisco Administrative Code Section 67.11(b)

   CONFERENCE WITH LEGAL COUNSEL - Existing Litigation

   a. Alison Duthie, et al v. City and County of San Francisco, et al., USDC No. C00-0539 MEJ

DOCUMENTS DEPT.

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The Police Commission

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Commissioner

ANGELO QUARANTA
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, APRIL 2, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

1. Pledge of Allegiance
2. Roll Call
3. Disclosure of Action taken in Closed Session. Discussion and Action on whether to Disclose Discussion in Closed Session
4. Approval of Consent Calendar
5. Police Commission Announcements
   a. Motion of Calendaring of New Items
6. Discussion and Possible Action to Order the Release of Documents to the Office of Citizen Complaints ("OCC") in Connection with the OCC's Investigation of a Citizen's Complaint regarding the Criminal Investigation of the November 20, 2002 Incident involving Members of the Police Department
7. Chief's Announcements and Review of Recent Department Events
8. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
9. Presentation of the OCC's 2002 Third Quarter Statistical Reports
10. Public Comments
    (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

DOCUMENTS DEPT.

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Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, APRIL 2, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

CONSENT CALENDAR

1. Recommendation of the City Attorney for settlement of the following claim:

   a. Alison Duthie, et al v. City and County of San Francisco, et al., USDC No. C00-0539 MEJ

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

*There will be Public Comments on any item before or during discussion of each item.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE: DONNA HALL, ADMINISTRATOR, CITY HALL, ROOM 244, #1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4689; OFFICE (415) 554-5163; E-MAIL: Donna Hall@ci.sf.ca.us. COPIES OF THE SUNSHINE ORDINANCE CAN BE OBTAINED FROM THE CLERK OF THE SUNSHINE TASK FORCE, THE SAN FRANCISCO PUBLIC LIBRARY, AND ON THE CITY'S WEBSITE AT www.ci.sf.ca.us/bdsupvrs/sunshine

Lobbyist Registration and Reporting Requirements
Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Government Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; webs site www.sfgov.org/ethics

SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

Communication accessibility services; including sign language Interpreters or computer aided real time captioning will be made available upon advance request. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406(tty), at least 72 hours prior to a proceeding. Late requests will be honored if possible.

A **sound enhancement system** will be available on request at the proceeding.

Meeting agendas and other print materials will be made available in **alternate formats** (computer disk, cassette tape, large print or Braille) upon advance request at least 72 hours at least 72 hours prior to a proceeding. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406 (tty). Late requests will be honored if possible.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call 553 1343 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products.

The proceeding will be held at the Hall of Justice, 850 Bryant Street, 5th floor Police Commission Hearing Room. The closest accessible BART station is 5th and Mission Streets. Accessible MUNI lines serving this location are 42 and 9X San Bruno Express.

For information about MUNI service call 923 6142

Accessible parking is available in front of the Hall of Justice, 850 Bryant Street.

Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

APRIL 2, 2003 CLOSED SESSION

The Police Commission of the City and County of San Francisco met in their chambers, Room 505-2, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:15 p.m., in Closed Session.

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

CONFERENCE WITH LEGAL COUNSEL - Existing Litigation
a. Alison Duthie, et al. v. City and County of San Francisco, et al., USDC No. C00-0539 MEJ

APRIL 2, 2003 REGULAR MEETING

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 6:05 p.m., in a Regular Meeting..

PRESENT: Commissioners Perry, Makras, Chan, Friday
ABSENT: Commissioner Quaranta

DISCLOSURE OF ACTION TAKING IN CLOSED SESSION. DISCUSSION AND ACTION ON WHETHER TO DISCLOSE DISCUSSION IN CLOSED SESSION

Commissioner Chan made a motion not to disclose the action or discussion taken in Closed Session. Second by Commissioner Friday. Approved 4-0.

APPROVAL OF CONSENT CALENDAR

Commissioner Chan made a motion for approval of the Consent Calendar. Second by Commissioner Makras. Approved 4-0.

RESOLUTION NO. 20-03

ALISON DUTHIE ET AL. v. CITY AND COUNTY OF SAN FRANCISCO ET AL.

RESOLVED, that the recommendation of the City Attorney for settlement of the litigation of "Alison Duthie et al. v. City and County of San Francisco et al.," in United States District Court (N.D.Cal.), Case No. C00-0539 (MEJ), be, and the same is hereby approved.

Date of Incident: May 30, 1999

AYES: Commissioners Perry, Makras, Chan, Friday
ABSENT: Commissioner Quaranta

POLICE COMMISSION ANNOUNCEMENTS
a. Motion of Calendaring of New Items

Commissioner Perry asked when is the Commission scheduled to meet in the community. Lieutenant Geeter, Secretary to the Commission, informed the Commission that the next district meeting will be on April 23, 2003, in the Richmond District.

DISCUSSION AND POSSIBLE ACTION TO ORDER THE RELEASE OF DOCUMENTS TO THE OFFICE OF CITIZEN COMPLAINTS ("0CC") IN CONNECTION WITH THE OCC'S INVESTIGATION OF A CITIZEN'S COMPLAINT REGARDING THE CRIMINAL

INVESTIGATION OF THE NOVEMBER 20, 2002 INCIDENT INVOLVING MEMBERS OF THE POLICE DEPARTMENT

Ms. Jean Field, Acting OCC Director, gave a progress report. She informed the Commission that the OCC met with Deputy Chief Fong, City Attorney Morley, Lieutenant Keohane of Legal, and other members of the department. She stated that the City Attorney informed the OCC that, in its opinion, there was no legal impediment to the immediate production of the documents requested by the OCC. Also, that the Police Department has a letter from the District Attorney requesting not to release any files to the OCC while prosecution is underway, that it could seriously compromise his ability to properly handle this case.

Lt. Keohane, Legal Division, reported to the Commission stating that the Department has made a list of all documents the department has on this case and that a meeting is scheduled with Deputy Chief Fong, the OCC, and the District Attorney on Thursday, April 10th, and that said list will be presented to the District Attorney and the OCC. Hopefully, the District Attorney will advise the Department which documents specifically should not be released.

Commissioner Perry read a letter from the District Attorney, the last paragraph reads:

"For the OCC to seek the Police Department's files or to begin independently investigating this case while a prosecution is contemplated or underway could seriously compromise our ability to properly handle this case. As the Chief Law Enforcement Officer of San Francisco County, I request that the OCC refrain from interfering with this case. Once it is completed, all details of the case will be provided to the OCC."

Commissioner Perry then read a letter from the City Attorney, the last paragraph reads:

"The District Attorney's objection to OCC's access to documents without more, such as a court order prohibiting disclosure, does not provide the department sufficient basis for a refusal to comply with the OCC's request for documents."

Commissioner Perry further stated that she also received a letter from the POA which stated in part that the POA agrees with the District Attorney's Office not to release documents to the OCC.

Commissioners Perry, Makras, Chan and Friday asked Lt. Keohane and the OCC a few questions on the issue. Each Commissioner expressed their concerns in light of two conflicting opinions from the City Attorney and the District Attorney. Each Commissioner stated that they, at least, would like to wait until after the meeting on April 10th so they can get specific reasons from the District Attorney.

PUBLIC COMMENTS:

Mark Schlosberg, ACLU, stated that he has heard a lot during this discussion, but none of which looks at what the City Charter says. He stated that City Charter Section 4.127 states that in carrying out its objective, the OCC shall receive prompt and full cooperation from the Department. That, if the Commission does not require the OCC to receive those documents, the Commission is in violation of the City Charter.

Frank Del Campo, Local 790 representative, addressed the Commission and spoke in support of the OCC receiving the requested documents for three reasons: (1) They should get the documents because they need the information

to do their job; (2) That legal counsel has advised the Department to give OCC the documents; (3) The OCC runs the risk of being irrelevant if people see that they cannot do their job.

Unidentified addressed the Commission stating that the Department should release the documents and that the Commission should not delay in releasing the documents.

Commissioner Friday stated that he would not let the SCIU or anyone else put words into his mouth by saying the OCC is irrelevant or useless. He stated that he voted for the formation of the OCC and believes that the OCC is an important organization that he has supported over the years. Commissioner Friday stated that if the SCIU wants to suggest that the OCC is irrelevant, that it's their words not his.

Commissioner Makras stated that he wants the records to reflect that he stands by what Commissioner Friday said.

Commissioner Chan made a motion to put off making a decision on this issue until after the scheduled April 10th meeting with the District Attorney. The motion was second by Commissioner Friday. Motion Approved 4-0.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Deputy Chief Pengel informed the Commission that Deputy Chief Fong will update the Commission on two issues.

Deputy Chief Fong reported on two issues: (1) The investigation she was asked by the Commission to conduct regarding General Order 8.10. Chief Fong stated that the investigation has led to the necessity to conduct additional interviews outside the initial scope of the investigation and that she hopes to have her final report within two weeks. (2) Regarding the independent investigation. Chief Fong stated that she is working with Commissioner Perry and the City Attorney in order to finalize the process for the selection of an independent investigator.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Ms. Jean Field, Acting OCC Director, relinquished her time to OCC investigators:

Irene Rapoza, OCC Investigators Representative, asked the Commission to look into the possibility of making some changes into the department's policy that all OCC interviews of officers must take place within the officer's regular duty hours. She stated that this policy was adopted in 1997 and that it places a hardship on OCC investigators.

Frank Del Campo, Local 790, spoke in favor of the Department's cooperation with the OCC in helping to solve this issue.

PRESENTATION OF THE OCC'S 2002 THIRD QUARTER STATISTICAL REPORTS

Ms. Jean Field presented the OCC's 2002 Third Quarter Statistical Reports. She stated that they have submitted two policy change recommendations and that the OCC looks forward to working with the department on those two issues.

PUBLIC COMMENTS

Mark Schlosberg, ACLU, stated that he felt the Commission was in violation of the Sunshine Act. That this date prior to the meeting, three Commissioners were in a room where he was told he could not attend.

Jodie Reed, Visitation Valley District, asked the Commission for assistance in providing security in the area. She stated that the Ingleside Police Station has helped but more assistance is needed.

Unidentified, Visitation Valley resident, stated that her window was shot out and her daughter had to be taken to the hospital. She stated that her daughter was not injured but had to be checked out because her bed is next to the window. She asked for police to respond.

Felicia Tippalo, Visitation Valley resident, stated that almost daily she hears gunshots in the area and asked for more patrol cars in the area.

Unidentified, liaison for Visitation Middle School, stated that they are tired of being targets and that they need more patrol cars in the area.

Amanda Mitchell, Visitation Valley resident, read a statement with 8 suggestions to improve the situation in the area: (1) Regular consistent patrol in the neighborhood; (2) Beat patrol officers, on foot or bikes or both; (3) Loitering, officers should get out of their cars; (4) Work with property management staff; (5) Assign more bilingual officers to the neighborhood; (6) Enforce speeding laws; (7) Establish satellite substations throughout Visitation Valley; (8) Work with local schools and service providers.

Thereafter, the meeting was adjourned at 7:35 p.m.

Lt. Edward Geeter, #1273

_____

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, APRIL 9, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

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1. Pledge of Allegiance
2. Roll Call
3. Approval of Minutes for the Meetings of March 19th and 26, 2003
4. Police Commission Announcements
   a. Motion of Calendaring of New Items
5. Chief's Announcements and Review of Recent Department Events
6. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
7. Request of the Chief of Police for Approval to revise Resolution No. 3-03, Authorizing the Chief of Police to Apply for Retroactively, Accept and Expend Funds from the Governor's Office of Criminal Justice Planning to Implement the Suppression on Drug Abuse in Schools Program, to Include a Provision for "Indirect Costs"
8. Discussion and Action re: Revised General Order 1.02, "District Boundaries"
9. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)
10. Disposition on Disciplinary Charges filed against Inspector Henry L. Kirk, General Works Detail, (File No. C01-411 GRN)

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*There will be Public Comments on any item before or during discussion of each item.

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(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

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For information about MUNI service call 923 6142

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Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

APRIL 9, 2003 REGULAR MEETING

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:45 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

APPROVAL OF MINUTES FOR THE MEETINGS OF MARCH 19TH AND 26, 2003

Commissioner Makras made a motion to approve the minutes for the Commission meetings of March 19th and 26, 2003. The motion was second by Commissioner Chan. Approved 5-0.

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry announced that, if there were no objections, the Commission will not meet on April 30, 2003.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Assistant Chief Fagan welcomed Deputy Chief Suhr and Deputy Chief Robinson back to duty. He also announced that Deputy Chief Suhr, Deputy Chief Fong, Deputy Chief Bruce, and Commander Puts met with the National Lawyer's Guild and are attempting to work out any future problems that they see that might arise from the demonstrations.

Chief Fagan also stated that the General Order addressing racial profiling is being reviewed by all parties and it should be ready to be presented to the Commission within two weeks.

Chief Fagan further stated that he had received a phone call from Ms. Medley, Acting OCC Director, to bring to his attention that the Department had not responded to the OCC investigation report regarding the Martin Luther King incident. Chief Fagan acknowledged that the Department's procedure is to respond to OCC's report within 60 days. He stated that due to problems the Command Staff has been dealing with, this item fell through the cracks . The documents have been signed and that this oversight will not happen again.

Commissioner Makras asked when was the Department given the report? Acting OCC Director Jean Field stated that she believes the Department was given the report sometime in January.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Ms. Jean Field, Acting OCC Director, informed the Commission that the OCC will meet tomorrow, April 10th, to discuss the disclosure of documents. She also stated that the OCC has been requested by Supervisor Ammiano to prepare a report to the Board of Supervisors regarding all delays by the Police Department in years 2001 and 2002. She stated that once the report is completed, a copy will be given to the Commission. She also stated that one OCC investigator has completed the POST Homicide Investigator course.

Commissioner Perry asked Chief Fagan if the Department is also preparing a report to the Board of Supervisors, and if so, the Commission would like to have a copy.

Ms. Field stated the report is due by April 18th.

REQUEST OF THE CHIEF OF POLICE FOR APPROVAL TO REVISE RESOLUTION NO. 3-03, AUTHORIZING THE CHIEF OF POLICE TO APPLY FOR RETROACTIVELY, ACCEPT, AND EXPEND FUNDS FROM THE GOVERNOR'S OFFICE OF CRIMINAL JUSTICE PLANNING TO IMPLEMENT THE SUPPRESSION ON DRUG ABUSE IN SCHOOLS PROGRAM, TO INCLUDE A PROVISION FOR "INDIRECT COSTS"

Officer Phil Fleck, Grant Unit, addressed the Commission explaining the reasons behind the request to revise resolution no. 3-03. Commissioner Friday made a motion for approval of the revised resolution. The motion was second by Commissioner Makras. Motion approved 5-0.

RESOLUTION NO. 21-03

APPROVAL OF THE REQUEST OF THE CHIEF OF POLICE TO REVISE RESOLUTION NO. 3-03, AUTHORIZING THE CHIEF OF POLICE TO APPLY FOR RETROACTIVELY, ACCEPT AND EXPEND FUNDS FROM THE GOVERNOR'S OFFICE OF CRIMINAL JUSTICE PLANNING TO IMPLEMENT THE SUPPRESSION ON DRUG ABUSE IN SCHOOLS PROGRAM, TO INCLUDE A PROVISION FOR "INDIRECT COSTS"

RESOLVED, that the Police Commission hereby approves request of the Chief of Police to revise Resolution No. 3-03, Authorizing the Chief of Police to Apply for Retroactively, Accept and Expend Funds from the Governor's Office of Criminal Justice Planning to Implement the Suppression on Drug Abuse in Schools Program," to include a provision for "Indirect Costs."

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

DISCUSSION AND ACTION RE: REVISED GENERAL ORDER 1.02, "DISTRICT BOUNDARIES"

Dr. Steve Lutes, Planning, addressed the Commission stating that the recommended changes to General Order 1.02 in no way modified the existing jurisdictional subdivision of the City but it does correct a number of errors that were made in the past. He stated the errors were discovered while in the process of developing computerized maps for the crime analysis system. He stated that now, when you look at the maps of police districts, they will conform to the description of the boundaries in the General Order.

Commissioner Makras made a motion to approve the revised General Order 1.02. Motion was second by Commissioner Friday. Motion approved 5-0.

RESOLUTION NO. 22-03

APPROVAL OF REVISED GENERAL ORDER 1.02, "DISTRICT BOUNDARIES"

RESOLVED, that the Police Commission hereby adopts revised General Order 1.02, "District Boundaries."

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

PUBLIC COMMENTS

Mark Schlosberg, ACLU, addressed the Commission stating that he believes the Commission should take a strong look at some of the accountability issues he and others have raised like the early warning system and the whistle blower protection etc. He further stated that the fact that the Commission is cancelling meetings is a great concern to the ACLU and that he hopes the Commission will hold a hearing in the future to address the issues.

Assistant Chief Fagan stated that he wanted to point out that, in regards to Mark Schlosberg and the OCC, that the Department have had a great dialogue and that when they have brought things to the Department's attention, the Department have attempted to, in a timely manner, resolve them. So for anyone to say or think that because the Commission cancelled a meeting that this means this Department is not moving towards accountability is mistaken.

Commissioner Makras stated the Chief's leadership in taking San Francisco forward has his unequivocal support and he wanted the Chief and the Command Staff to know that he believes that the Chief has done an exceptional job and that he is proud of him and his officers and that equally needed to be said.

Ms. Machen stated that she also supports Chief Fagan and Deputy Chief Fong. She also addressed the issue of police who gets in trouble and gets special treatment. She stated that when Officer E.R. Balinton was arrested, he was arrested at his home in the middle of the night and booked in the 6th Floor jail along with other alleged criminals. She stated that she will see how Chief Fagan will handle a similar situation if a police officer gets into trouble.

DISPOSITION ON DISCIPLINARY CHARGES FILED AGAINST INSPECTOR HENRY L. KIRK, GENERAL WORKS DETAIL (FILE NO. C01-411 GRN)

Attorney Geoffrey Spellberg appeared on behalf of the Department. Attorney Michael Cardoza appeared on behalf of Inspector Kirk.

Inspector Kirk admitted to the truth of the amended charges and accepted responsibility for his actions.

Commissioner Friday made a motion to accept the agreed-upon disposition that Inspector Kirk be suspended for ninety (90) days with said suspension being permanently stayed. The motion was second by Commissioner Quaranta. The Commission were polled: Commissioner Perry, recused herself; Commissioner Makras, no; Commissioner Chan, yes; Commissioner Friday, yes; Commissioner Quaranta, yes.

HEARING OF INSPECTOR HENRY L. KIRK, GENERAL WORKS DETAIL (FILE NO. C01-411 GRN)

The hearing of Inspector Henry L. Kirk, Star No. 1160, General Works Detail, was called it having been set for this date. Inspector Kirk was charged, in a properly verified complaint by Prentice E. Sanders, Chief of Police of the San Francisco Police Department, with violating the Rules and Procedures as follows:

SPECIFICATION NO. 1

[Inattention to Duty] Failure to make report after learning from an officer and test candidate that the Q-35 Inspector Examination had been compromised (violation of Rule 1 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 2

[Inattention to Duty] Failure to make report after learning from an officer and test candidate that the Q-35 Inspector examination had been compromised (violation of Rule 1 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 3

[Violating Oath of Confidentiality] Engaging in conduct which undermines the good order and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 4

[Violating Oath of Confidentiality] Engaging in conduct which undermines the good order and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 5

[Failure to Report Compromise of Test] Failure to report a serious crime or urgent police matter which came to his attention while on duty (violation of Rule 25 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 6

[Failure to Report Compromise of Test] Failure to report a serious crime or urgent police matter which came to his attention while on duty (violation of Rule 25 of Department General Order 2.01 of the San Francisco Police Department).

Mr. Geoffrey Spellberg, Attorney at Law, appeared on behalf of the San Francisco Police Department.

Inspector Henry L. Kirk appeared in person and was represented by Mr. Michael E. Cardoza, Attorney at Law.

Mr. Spellberg entered a motion to amend the charges. The Commission approved the department's motion to amend the charges.

Inspector Kirk admitted to the truth of the allegations contained in Specification No. 1 of the amended charges and accepts responsibility for his actions.

Based on Inspector Kirk's admission, the Commission requested a recommendation from Assistant Chief of Police Alex Fagan.

It is the recommendation of Assistant Chief of Police Alex Fagan that Inspector Henry L. Kirk be suspended for ninety (90) days with said suspension being immediately and permanently stayed.

The Commission took the matter under submission and the following resolution was adopted:

RESOLUTION NO. 23-03

DECISION -HEARING OF INSPECTOR HENRY L. KIRK, GENERAL WORKS DETAIL (FILE NO. C01-411 GRN)

WHEREAS, on February 6, 2003, Prentice E. Sanders, Chief of Police of the San Francisco Police Department, made and served amended charges against Inspector Henry L. Kirk, as follows:

AMENDED CHARGES

SPECIFICATION NO. 1:
[Failure to Report Compromise of Test] Failure to report a serious crime or urgent police matter which came to his attention while on duty (violation of Rule 25 of Department General Order 2.01 of the San Francisco Police Department).

(1) At all times mentioned herein Henry L. Kirk, Star No. 1160, was and is a police officer employed by the San Francisco Police Department, holding the rank of Q-380 Inspector. At the time of the events described herein, Kirk was and still is assigned to the General Work Detail.

(2) As a police officer, Kirk was and is responsible for knowing and obeying the rules, orders, and procedures of the San Francisco Police Department.

(3) The San Francisco Police Department scheduled a September 1997 examination for the civil service classification of Q-35, Assistant Inspector. Kirk was designated a Subject Matter Expert ("SME") and participated in the creation of an examination to test eligible police officer candidates for the position of "Q-35, Assistant Inspector." Kirk participated in developing factual scenarios that would later be used to test candidates in the written portion of the examination.

(4) In approximately August 1997, Kirk was on duty on a Sunday morning at the Hall of Justice. When he arrived at the Hall of Justice that morning, he learned that Sergeant Arthur Stellini had been searching through Kirk's desk without permission from Kirk.

(5) Stellini was a candidate for a Q-35 Assistant Inspector position and was going to be taking the Q-35 Assistant Inspector Examination that Kirk was involved in preparing. Stellini stated that he was searching the desk for ATF forms. However, Kirk suspected that Stellini was searching for information that Stellini would use to assist him and his study group in preparing for the examination. Stellini was aware that Kirk was an SME on the test.

(6) Kirk failed to report that conduct by Stellini even though Stellini was potentially seeking information from the desk of a SME in order to obtain an unfair advantage in preparing for the examination.

(7) Kirk's failure to report Stellini's conduct is a neglect of duty and violated Department General Order 2.01, Rule 25, which states:

"25. ON-DUTY WRITTEN REPORTS. While on duty, members shall make all required written reports of crimes or incidents requiring police attention."

WHEREAS, a hearing on said charges was held before the Police Commission pursuant to Appendix A. Section A 8.343 of the Charter of the City and County of San Francisco on April 9, 2003, where the matter was submitted to the Police Commission for decision; and

WHEREAS, based on Inspector Henry L. Kirk's admission, the Commission finds the allegations contained in Specification No. 1of the

amended disciplinary charges as preferred by Chief of Police Prentice E. Sanders against Inspector Kirk are sustained; and the Commission adopts the sustained specifications as its findings in this matter; therefore be it

RESOLVED, that based on these findings, consistent with the Commission's duty to protect the health, safety, and general welfare of the citizens of the City and County of San Francisco and the public in general, and in order to promote efficiency and discipline in the San Francisco Police Department, the Police Commission orders the following discipline be imposed:

SPECIFICATION NO. 1 Sustained

That Inspector Henry L. Kirk be suspended for ninety (90) days with said suspension being immediately and permanently stayed.

If this decision is subject to review under Code of Civil Procedure section 1094.5, then the time and within which judicial review must be sought is governed by California Code of Civil Procedure, section 1094.6.

AYES:	Commissioners Chan, Friday, Quaranta
NAYS:	Commissioner Makras
RECUSED:	Commissioner Perry

Thereafter, the meeting was adjourned at 6:40 p.m.

Lt. Edward Geeter, #1273

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Lieutenant Edward Geeter
Secretary
THE POLICE COMMISSION

1273/rct

15
16/03

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, APRIL 16, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

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1. Pledge of Allegiance
2. Roll Call
3. Approval of Minutes for the Meeting of April 2, 2003
4. Police Commission Announcements
   a. Motion of Calendaring of New Items
5. Chief's Announcements and Review of Recent Department Events
6. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
7. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)
8. Disposition on Disciplinary Charges filed against Officer Roy Michael Ramos, Bayview (File No. C02-273 JWA)

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APRIL 16, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

APPROVAL OF MINUTES FOR THE MEETING OF APRIL 2, 2003

Commissioner Quaranta made a motion to approve the minutes for the Commission meeting of April 2, 2003. The motion was second by Commission Chan. Minutes approved 5-0.

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry announced that the Commission will meet on April 30th and that the Commission has business to complete that day. She also announced that the Commission will hold next week's Commission meeting in the community at Richmond Police Station, 461 6th Avenue.

Commissioner Friday asked to let the record show that because the Commission will hold a meeting on April 30th, does not reflect the opposition of the ACLU.

Commissioner Quaranta announced that he will be out of the country from April 22nd through May 14th.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Deputy Chief Robinson addressed the Commission regarding the arrest of four individuals in an Asian extortion case for the purchase on the street of an AK47 assault rifle. The arrests were made by members of the Violent Gang Task Force and the Special Investigation Unit.

Assistant Chief Fagan informed the Commission that he met with the members of the Filipino community who spoke at the Commission meeting a week or two ago and stated that he believes the issues of concern have been resolved.

Chief Fagan also read the following statement:

"One of our greatest strengths through all we have been through is that we remain an open community-oriented policing department. Input from the public is essential to our effective operation.

We are taking stock of what has taken place to assess what continues to work and look at those areas where improvement or change is called for. We are fully prepared to take all appropriate steps to retain the trust the public has placed in us.

One of our priorities is the development of a comprehensive protocol when there are serious allegations of criminal conduct involving off-duty SFPD officers.

If in such cases there is a potential for conflict of interest, or the appearance of conflict of interest, the protocol being developed will allow for these cases to be handled by our Special Investigations Division. This unit is staffed by inspectors with extensive experience in investigating highly

sensitive matters.

Along with this is the parallel development of a comparable protocol for supervisors and commissioned officers concerning handling serious allegations of misconduct by off-duty officers. This protocol will be the subject of training at several different levels in the department.

For sergeants and officers, this training will be part of their post-mandated continued professional training. For lieutenants and captains, this matter will be addressed in our upcoming management course. The matter of properly handling these kinds of allegations will also continue to be addressed at the command staff level.

We will also be having our training division look at how the subject of appropriate off-duty behavior can be stressed to recruits during the basic academy.

We are also looking at whether to bring outside presenters to address supervisory personnel on risk management issues to emphasize the critical role of accountability in maintaining discipline within our ranks.

We intend to look at the various components of our training to see if they may need re-working. We will be looking at our Field Training Program, our Probationary Program, as well as our current performance appraisals.

Further, we will be looking at our Early Warning System General Order and several other orders to see if they are in need of modification or supplementation.

We welcome the suggestion of anyone who may have positive recommendations on how trust and confidence can be maintained. This includes input from the Police Commission, the OCC, the ACLU, community groups, and police employee organizations..

We also welcome the findings of any independent investigation that may take place.

In terms of increasing input form the community, we established many months ago a racial profiling tip line so that anyone can report incidents of suspected biased policing.

We will also look at "town hall" type meetings in various communities if they can be used as part of the restoration of public confidence in SFPD.

We have already shown a willingness to address difficult issues. Whether the subject is harassment, biased policing, or off-duty conduct, we will not back away from our responsibility to the public to ensure that our officers' behavior meets the highest standards."

Commissioner Perry asked Deputy Chief Fong for the status of her investigation for an independent investigator. Deputy Chief Fong addressed the Commission stating that the scope of an independent investigator had been completed and that it needed to be looked at by the City Attorney and the Police Commission to ensure that this is what the Commission had mandated.

Commissioner Perry set the date of April 30th to calendar the issue on the Commission calendar.

Commissioner Perry also asked Deputy Chief Fong regarding the status of the General Order 8.10 investigation.

Deputy Chief Fong reported that all interviews have been completed and when the investigator who conducted the interviews returns from vacation, his report will be typed and submitted.

Commissioner Perry asked Deputy Chief Fong regarding the results of the meeting with the district attorney's office regarding release of documents to the OCC. Chief Fong stated that Lieutenant Keohane would address the Commission on that issue.

Lieutenant Keohane reported that at the meeting on April 10th with the district attorney's office and the OCC, it was agreed that the district attorney would review the list of documents the OCC had requested and release to the OCC those documents which he felt could be released. Lieutenant Keohane stated that on this day, April 16th, the district attorney requested that all documents in the possession of the MCD could be released to the OCC, and today, all documents were given to the OCC.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Ms. Donna Medley, Acting OCC Director, reported that the OCC had received the requested documents and hope to have more meetings with the Department and the district attorney to obtain other documents when available. She also reported that the OCC had completed their investigation of the incident which occurred on Martin Luther King's birthday last year and stated that it's now with the Police Department.

Ms. Medley stated that the Human Resources passed a resolution honoring the life of Ms. Mary Dunlap, former OCC Director, who passed away last year.

Commissioner Perry thanked the Department, the OCC, and the District Attorney's office for working together to come to an agreement without the Commission having to impose a solution. Commissioner Perry stated that she thinks it is better if parties can work out a solution so that a third party does not have to impose one.

PUBLIC COMMENTS

None

DISPOSITION ON DISCIPLINARY CHARGES FILED AGAINST OFFICER ROY MICHAEL RAMOS, BAYVIEW (FILE NO. C02-273 JWA)

Ms. Katherine Mahoney, Attorney at Law, was present on behalf of Officer Ramos who was not present.

Ms. Jerry Akins, Attorney at Law, was present on behalf of the San Francisco Police Department.

Commissioner Perry read the following letter written by Ms. Mahoney, attorney for Officer Ramos:

"Dear Commissioner Perry:

I am writing to memorialize the agreement that has been reached regarding Officer Roy Michael Ramos pending case before the Police

Commission. Officer Ramos will retire from the Police Department by May 16, 2003, which is 30 days from today.

In light of this agreement, I understand that this Commission will take his case, which is scheduled for a hearing tonight, off calendar.

Sincerely,
Katherine Mahoney"

Mr. Jerry Akins asked to address the issue stating that the case should not be taken off calendar, but continued until May 21, 2003 with a stipulation that Officer Ramos use comp time or vacation for the 30 days and not be allowed to continue to work.

The Commission asked a few questions to both attorneys and Assistant Chief Fagan.

Commissioner Friday made a motion to continue the matter until May 21, 2003, on the condition that Officer Ramos does not work during this time.

The motion was second by Commissioner Chan. The motion was approved by a 5-0 vote.

RESOLUTION NO. 24-03

HEARING OF OFFICER ROY MICHAEL RAMOS, BAYVIEW (FILE NO. C02-273 JWA)

WHEREAS, on October 22, 2002, Chief of Police Prentice E. Sanders made and served charges against Officer Roy Michael Ramos, Bayview, as follows:

SPECIFICATION NO. 1

Conduct which undermines the good order, efficiency and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department);

and

WHEREAS, the Police Commission set Wednesday, April 16, 2003, as the date for the hearing on charges filed against Officer Roy Michael Ramos; and

WHEREAS, the Police Commission received a letter from Officer Ramos' Attorney Katherine Mahoney, stating that Officer Ramos will retire from the Police Department effective Friday, May 16, 2003, and requesting that his case be taken off calendar;

WHEREAS, Attorney Jerry W. Akins, appeared on behalf of the San Francisco Police Department, stated that the case should not be taken off calendar; that it should be continued on May 21, 2003 with a stipulation that Officer Ramos use compensatory time or vacation for the thirty (30) days and that Officer Ramos not be allowed to perform police work; and

WHEREAS, Commissioner Wayne Friday made a motion to continue this matter until May 21, 2003, on the condition that Officer Roy Michael Ramos does not do police work during said thirty (30) days. The motion was second by Commissioner Sidney Chan; therefore be it

RESOLVED, that the Police Commission approves the motion to continue the hearing so that Officer Roy Michael Ramos can retire from the San Francisco Police Department by Friday, May 16, 2003; and

FURTHER RESOLVED, that Officer Roy Michael Ramos will use compensatory time or vacation for the thirty (30) days and that Officer Ramos will not be allowed to continue to do police work; and

FURTHER RESOLVED, that the hearing on the charges of violating the Rules and Procedures of the San Francisco Police Department filed against Officer Roy Michael Ramos, Bayview, be continued on Wednesday, May 21, 2003.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

Thereafter, the meeting was adjourned at 6:12 p.m.

Lt. Edward Geeter, #1273

_____

Lieutenant Edward Geeter
Secretary
THE POLICE COMMISSION

1273/rct

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4/17/03

2

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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SAN FRANCISCO POLICE COMMISSION AGENDA

SPECIAL MEETING
THURSDAY, APRIL 17, 2003
11:00 a.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

04-16-03A10:55 RCVD

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1. Roll Call.

2. Public Comment on Items 3-4.

3. Closed Session pursuant to Government code Section 54957 and San Francisco Administrative code Section 67.10(b):

   PUBLIC EMPLOYEE APPOINTMENT/HIRING: DIRECTOR OF THE OFFICE OF CITIZEN COMPLAINTS

   (Discussion and possible action to select a nominee or nominees for possible Mayoral appointment to the position of Director of the Office of Citizen Complaints.)

4. Reconvene in open session and vote to elect whether to disclose any or all discussions held in closed session (San Francisco Administrative Code Section 67.12(a). (Action Item)

5. Adjournment.

SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

Communication accessibility services; including sign language Interpreters or computer aided real time captioning will be made available upon advance request. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406(tty), at least 72 hours prior to a proceeding. Late requests will be honored if possible.

A **sound enhancement system** will be available on request at the proceeding.

Meeting agendas and other print materials will be made available in **alternate formats** (computer disk, cassette tape, large print or Braille) upon advance request at least 72 hours at least 72 hours prior to a proceeding. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406 (tty). Late requests will be honored if possible.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call 553 1343 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products.

The proceeding will be held at the Hall of Justice, 850 Bryant Street, 5th floor Police Commission Hearing Room. The closest accessible BART station is 5th and Mission Streets. Accessible MUNI lines serving this location are 42 and 9X San Bruno Express.

For information about MUNI service call 923 6142

Accessible parking is available in front of the Hall of Justice, 850 Bryant Street.

Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

APRIL 17, 2003 **SPECIAL MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 11:05 a.m., in a Special Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

PUBLIC COMMENTS on Items 3 - 4

None

CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION 54957 AN THE SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.109(b):

PUBLIC EMPLOYEE APPOINTMENT/HIRING: DIRECTOR OF THE OFFICE OF CITIZEN COMPLAINTS

(Discussion and possible action to select a nominee or nominees for possible Mayoral appointment to the position of Director of the Office of Citizen Complaints.)

Commissioner Makras made a motion to go into Closed Session. The motion was second by Commissioner Chan. Motion approved 5-0.

RECONVENE IN OPEN SESSION AND VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSIONS HELD IN CLOSED SESSION (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(a). (ACTION ITEM)

Commissioner Chan made a motion not to disclose the discussion but to disclosed the action taken in Closed Session. The motion was second by Commissioner Makras. Motion passed 5-0.

Commissioner Perry announced to the public that the Commission had decided during Closed Session to nominate candidate Kevin Allen as the new head of the OCC, as the permanent Director as well as the Interim Director.

Mr. Kevin Allen introduced himself and gave a brief description of his background.

Thereafter, the meeting was adjourned at 11:35 a.m.

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
THE POLICE COMMISSION

1273/rct

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The Richmond District Community Police Forum

Cordially invites you and your neighbors
to attend the monthly meeting of
Agenda

THE SAN FRANCISCO POLICE COMMISSION

Wednesday, April 23, 2003, at 6 P.M.
Richmond Police Station
461-6th Avenue

The Community Meeting Room is located behind the Police Station, access through the driveway from Sixth Avenue or through the mini-park on Seventh Avenue.

Free Parking is available at Kaiser Permanente, across the street from the Police Station.

For more information contact:

Officer Jill Connolly, Richmond Station, 666-8000 or
Alexa Foote, San Francisco Neighborhood Safety Partnership,
553-1986 or 553-1984

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SAN FRANCISCO POLICE COMMISSION AGENDA
REGULAR MEETING
WEDNESDAY, APRIL 23, 2003
6:00 p.m.

RICHMOND DISTRICT
RICHMOND STATION COMMUNITY MEETING ROOM
461 Sixth Avenue
San Francisco

1. Pledge of Allegiance
2. Roll Call
3. Approval of Minutes for the Meeting of April 9, 2003
4. Police Commission Announcements
   a. Motion of Calendaring of New Items
5. Chief's Announcements and Review of Recent Department Events
6. OCC Director's Report re: Staffing, Budget and Summary of Recent Events
7. Discussion and Possible Action to Direct the Payment of Salary to Assistant Chief Alex Fagan, Deputy Chief Gregory Suhr, Deputy Chief Dave Robinson, Captain Gregory Corrales, Lieutenant Edmund Cota, and Sergeant John Syme for the Periods during which they were Suspended from Duty prior to Dismissal of the Criminal Charges against Them
8. Captain Sandra Tong, Commanding Officer of Richmond Station, to address the Commission on Police Activities in the ngleside District
9. Public Comments
   (Members of the public may address the Commission for up to 3 minutes for individuals or up to 5 minutes for groups. The President of the Commission may limit the total testimony time.)

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

**There will be Public Comments on any item before or during discussion of each item.*

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE: DONNA HALL, ADMINISTRATOR, CITY HALL, ROOM 244, #1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4683; OFFICE (415) 554-7724; FAX (415) 554-5163; E-mail: Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine

Lobbyist Registration and Reporting Requirements
Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Government Code §2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SAN FRANCISCO POLICE
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

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The proceeding will be held at: The Richmond District Police Station
461 6th Avenue, San Francisco

Accessible MUNI lines serving this location is: #38 Geary, #44 & #31 Lines
For information about MUNI service call 923 6142

The closest BART Station is: _____

Accessible parking in front of the Station

For information about the meeting call 553-1667 (v) or 553-9194 (tty)

APRIL 23, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in the Richmond District at the Richmond Station Community Meeting Room 461 Sixth Avenue, San Francisco, at 6:15 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan
ABSENT: Commissioners Friday, Quaranta

Commissioners Perry, Makras, and Chan introduced themselves.

APPROVAL OF MINUTES FOR THE MEETING OF APRIL 9, 2003

Commissioner Chan made a motion to approve the minutes of the Commission meeting of April 9, 2003. The motion was second by Commissioner Makras. The motion was approved 3-0.

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry announced that Item #7 will be taken off calendar and that there is no Commission action required on the matter.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Assistant Chief Fagan, Acting Chief of Police, welcomed Mr. Kevin Allen, the new director of the OCC, and stated that today the OCC submitted a report to Supervisor Ammiano regarding reported patterns of withholding of information requested by the OCC. Chief Fagan stated that he has not read the report but in response, he has assigned Captain Denis O'Leary as the Risk Management Captain to look at resolving some of the issues the OCC are reporting on.

Chief Fagan informed the Commission that the General Order outlining a racial profiling policy should be ready by April 30th.

Deputy Chief Robinson introduced Inspector Dan Gardner who reported on the arrest of three bank robbers who robbed a Bank of America Bank yesterday, April 22nd, at 3701 Balboa. The suspect could be responsible for 20 bank robberies. Inspector Gardner stated that residents of the area were very helpful as police went house to house searching backyards for the fleeing suspect. He also stated that one resident allowed the SWAT team to use their garage as a command post.

Chief Fagan then introduced his command staff. Present were Deputy Chief Fong, Commander Brown, Commander Hom, Deputy Chief Pengel, Deputy Chief Bruce, Commander Puts, and Commander Dudley.

OCC DIRECTOR'S REPORT RE: STAFFING, BUDGET, AND SUMMARY OF RECENT EVENTS

Commissioner Perry introduced the new OCC Director Mr. Kevin Allen, who gave a brief background description.

Commissioner Perry recognized Mr. Gregg Lowder of the Mayor's Criminal Justice Unit.

Commissioner Makras asked to have the records reflect the outstanding job the three acting directors of the OCC have done.

Mark Schlosberg, ACLU, addressed the Commission on the issue of the report submitted by the OCC to the Board of Supervisors. He stated that he knew the Commissioners have not had time to read the report since the report was released today. He stated that it should not have to take the Board of Supervisors requesting a report from the OCC for the Commission to address these issues and that the Commission have the responsibility to act on these issues reported by the OCC.

DISCUSSION AND POSSIBLE ACTION TO DIRECT THE PAYMENT OF SALARY TO ASSISTANT CHIEF ALEX FAGAN, DEPUTY CHIEF GREG SUHR, DEPUTY CHIEF DAVE ROBINSON, CAPTAIN GREGORY CORRALES, LIEUTENANT EDMUND COTA, AND SERGEANT JOHN SYME FOR THE PERIODS DURING WHICH THEY WERE SUSPENDED FROM DUTY PRIOR TO DISMISSAL OF THE CRIMINAL CHARGES AGAINST THEM

Taken off calendar

CAPTAIN SANDRA TONG, COMMANDING OFFICER OF RICHMOND STATION, TO ADDRESS THE COMMISSION ON POLICE ACTIVITIES IN THE RICHMOND DISTRICT

Captain Tong addressed the Commission and the community and gave an update on police activities within the district. Captain Tong also presented three citizens Certificates of Appreciations:

Laura Rothman, a 10-year old girl who, along with her little brother, assisted police in arresting an auto vandalism suspect who was using a metal object to damage seven cars;

Mr. Nick Buick, the director of the Holy Virgin Cathedral. In November, a thief broke into the church collection box. The crime lab was able to obtain the identity of the suspect through fingerprints. Some time later, the subject entered the church to ask for assistance. Upon giving his name, Mr. Buick recognized it as the name of the suspect. The police were called and the subject was arrested;

Patsy Lau, a volunteer who assist in the cleaning of Richmond Police Station.

PUBLIC COMMENTS

David Heller, Geary Boulevard Merchant Association, wanted to present a certificate of appreciation from the Geary Blvd. Merchants Assoc. to officers who walk the beat on Geary Blvd. He also wanted to address the issue of graffiti in the district and the fact that Viacom would like to donate a computer to the Graffiti Abatement Unit to assist the unit in presentation and outreach with school children.

Mr. Stewart, Director of the Small Business Commission, addressed the Commission on the issue of the anti-war demonstrations and wanted to thank the department on the way they helped protect the small businesses during the anti-war demonstrations.

Mr. Carnell, President of the Small Business Commission, addressed the Commission on the issue of graffiti and stated that the Small Business Commission is funding a graffiti fund to rid the city of graffiti.

Commissioner Perry acknowledged Supervisor Jake McGoldrick who addressed the community and the Commission. Supervisor McGoldrick said thank you and welcome to the Richmond District.

Mr. Steve Cartission, representing Assemblyman Leland Yee, addressed the issue of the Graffiti Abatement Program and lending his support to the efforts of Mr. Heller and the SFPD for continued success for the program.

Mr. John Gray thanked the Commission for holding the meeting in the district. He spoke on the issue of graffiti and the good job the police, the district attorney, and the Department of Public Works are doing to bate the graffiti problem.

Mr. Richard Hansen, Richmond District Democratic Club, spoke on the issue of outside investigators looking into the investigation of the incident on 11/20/02 street brawl. His association welcomes Deputy Chief Fong's outlines for an independent investigation and submitted several names that should be considered: Professor Bruce Caen, UC Berkeley; Mr. Joseph McNamara, Hoover Institute; and, Professor David Batstone, USF.

Mr. Jerry Gee, Chief of BART Police Department, spoke on the issue of graffiti on BART. He stated that they are proud to work with the SFPD and other police departments to help eliminate graffiti.

Officer Kellen Corria, BART P.D. Anti-Vandalism Team, stated that because BART works with many departments, once they have identified and a photo of the graffiti and or the suspect, they check with other departments to ascertain if that department has any information on a particular suspect and they have been successful in making arrests.

Sergeant Jeffrey, Amtrak Police, patrol for Caltrain, also works closely with BART and SFPD in dealing with graffiti. He mentioned that Caltrain has a trailer which is parked at 7th and Townsend in San Francisco which is in the process of being donated to the SFPD to be used by the task force to combat graffiti.

Julie Varra spoke on the issue of graffiti and to keep up the good work.

Commissioner Chan asked if the district attorney was prosecuting graffiti cases.

Officer Putz, SFPD Graffiti Abatement Unit, stated that they do get warrants and that the district attorney's office has assigned a district attorney to handle graffiti cases and warrants has been issued.

Ms. Jean Lench, community activist, spoke on the issue of traffic problems in the district caused by both autos and pedestrians.

Ms. Mary Ellis, Taraval Police District, thanked Captain O'Leary who is being reassigned to MCD.

Thereafter, the meeting was adjourned at 7:35 p.m.

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
THE POLICE COMMISSION

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LT EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, APRIL 30, 2003
5:00 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 505-2
San Francisco, California

CLOSED SESSION

1. Roll Call

2. Public Comments on all matters pertaining to the Closed Session

3. Vote on whether to hold Closed Session and/or assert Attorney/Client Privilege to confer with Legal Counsel. (San Francisco Administrative Code Section 67.11(a))

4. Closed Session held pursuant to Government Code 54956.9 and San Francisco Administrative Code Section 67.11(b)

   CONFERENCE WITH LEGAL COUNSEL - Existing Litigation

   a. Derrell Neal v. City and County of San Francisco et. al., San Francisco Superior Court No. 401-659

   b. Loretta Bowie v. City and County of San Francisco et. al., USDC No. C02-3082

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, APRIL 30, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

1. Pledge of Allegiance
2. Roll Call
3. Vote to elect whether to disclose any or all discussions held in Closed Session.
4. Approval of Minutes for the Meetings of April 16th, 17th, and 23, 2003
5. Approval of the Consent Calendar
6. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Sergeant Walter Cuddy, Bayview (File No. CCL 03-146)
7. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Sergeant Sherman Lee, Bayview (File No. CCL 03-147)
8. Police Commission Announcements
   a. Motion of Calendaring of New Items
9. Chief's Announcements and Review of Recent Department Events
10. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
11. Discussion and Action re: Adoption of New General Order 5.17, "Policy Prohibiting Biased Policing"
12. Request of the Chief of Police for Approval to Request for a Supplemental Appropriation amounting to $4,230,573 to cover Unanticipated and Unbudgeted Expenditures in Two Areas: Anti-war Protests and Workers' Compensation Claims
13. Public Comments
    (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, APRIL 30, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

14. Discussion and Action re: Motion for Dismissal of Disciplinary Charges filed against Inspector Arthur Stellini, Domestic Violence Unit (File No. C01-409 GRN), under Government Code 3304

CONSENT CALENDAR

1. Recommendation of the City Attorney for Settlement of the following claims:

   a. Derrell Neal v. City and County of San Francisco et. al., San Francisco Superior Court No. 401-659

   b. Loretta Bowie v. City and County of San Francisco et. al., USDC No. C02-3082

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*There will be Public Comments on any item before or during discussion of each item.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

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For information about MUNI service call 923 6142

Accessible parking is available in front of the Hall of Justice, 850 Bryant Street.

Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

APRIL 30, 2003 **CLOSED SESSION**

The Police Commission met in their chambers, Room 505-2, at the Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:03 p.m., in Closed Session.

CONFERENCE WITH LEGAL COUNSEL - Existing Litigation

a. Derrell Neal v. City and County of San Francisco et. al., San Francisco Superior Court No. 401-659

b. Loretta Bowie v. City and County of San Francisco et. al., USDC No. C02-3082

PRESENT: Commissioners Perry, Chan, Friday
ABSENT: Commissioners Makras, Quaranta

APRIL 30, 2003 **REGULAR MEETING**

The Police Commission met in their chambers, Room 551 at the Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:35 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Chan, Friday
ABSENT: Commissioners Makras, Quaranta

VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSIONS HELD IN CLOSED SESSION

Commissioner Chan made a motion not to discuss or disclose action taken in Closed Session. The motion was second by Commissioner Friday. Motion approved 3-0.

APPROVAL OF MINUTES FOR THE MEETINGS OF APRIL 16TH, 17TH, AND 23, 2003

Commissioner Chan made a motion to approve the minutes for the Commission Meetings of April 16th, 17th, and 23, 2003. The motion was second by Commissioner Friday. Minutes approved 3-0.

APPROVAL OF CONSENT CALENDAR

Commissioner Chan made a motion to approve the Consent Calendar. The motion was second by Commissioner Friday. Motion passed 3-0.

RESOLUTION NO. 25-03

DERRELL NEAL v. CITY AND COUNTY OF SAN FRANCISCO et.al.

RESOLVED, that the recommendation of the City Attorney for settlement of the litigation of "Derrell Neal v. City and County of San Francisco et. al.," San Francisco Superior Court No. 401-659, be, and the same is hereby approved.

Date of Incident: August 13, 2000

AYES: Commissioners Perry, Chan, Friday
ABSENT: Commissioners Makras, Quaranta

RESOLUTION NO. 26-03

LORETTA BOWIE v. CITY AND COUNTY OF SAN FRANCISCO et. al.

RESOLVED, that the recommendation of the City Attorney for settlement of the litigation of "Loretta Bowie v. City and County of San Francisco et. al.," be, and the same is hereby approved.

Date of Incident: October 1998 through November 2000

AYES: Commissioners Perry, Chan, Friday
ABSENT: Commissioners Makras, Quaranta

RESOLUTION NO. 27-03

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST SERGEANT WALTER CUDDY, BAYVIEW (FILE NO. CCL 03-146)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Sergeant Walter Cuddy, Star No. 1447, Bayview, was called it having been set for this date; and

WHEREAS, Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Sergeant Walter Cuddy; therefore be it

RESOLVED, that Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Sergeant Walter Cuddy, and is to be set at a later date.

AYES: Commissioners Perry, Chan, Friday
ABSENT: Commissioners Makras, Quaranta

RESOLUTION NO. 28-03

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST SERGEANT SHERMAN LEE, BAYVIEW (FILE NO. CCL 03-147)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Sergeant Sherman Lee, Star No. 1386, Bayview, was called it having been set for this date; and

WHEREAS, Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Sergeant Sherman Lee; therefore be it

RESOLVED, that Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Sergeant Sherman Lee, and is to be set at a later date.

AYES: Commissioners Perry, Chan, Friday
ABSENT: Commissioners Makras, Quaranta

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Chan stated that he will not be in the city for the next Commission meeting on May 7th. Commissioner Perry then stated that Commissioner Quaranta was out of the country and that, most likely, there will be no quorum for Wednesday, May 7th. Meeting for May 7th is cancelled.

Lieutenant Geeter, Secretary to the Police Commission, advised the Commissioners that the next district meeting will be held in the Park Police District at the Public Library, 1833 Page Street, San Francisco, on May 28th.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Acting Chief of Police Fagan read a letter from Mayor Brown in which the Mayor recommended that Deputy Chief Fong assume the duties of the Acting Assistant Chief of Police. Chief Fagan then stated that Deputy Chief Fong will assume the role of Acting Assistant Chief during the time that Chief Sanders is away.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, addressed the Commission and stated that he has already met with the Chief and the POA and that he plans to meet with other groups and organizations.

Samara Marion, OCC Attorney, addressed the Commission and urged the Commission to accept the new general order on racial profiling. She stated that the department worked closely with the OCC and other groups to develop this very good policy.

DISCUSSION AND ACTION RE: ADOPTION OF NEW GENERAL ORDER 5.17, "POLICY PROHIBITING BIASED POLICING"

Mark Schlosberg, ACLU, addressed the Commission on the issue of new general order 5.17, "Policy Prohibiting Biased Policing" and stated that he would also like to urge the Commission to adopt this very comprehensive policy.

Acting Chief Fagan thanked his command staff for their input as well as the POA and the Human Rights Commission. He further stated that, with this general order and training that will follow, this will assist greatly with the department's process in providing public safety.

Commissioner Perry stated that she would like to thank everyone and stated that when work is done with everyone's cooperation it makes the Commission's job easier.

Commissioner Chan made a motion for adoption of new General Order 5.17, "Policy Prohibiting Biased Policing." Motion was second by Commissioner Friday. Motion passed 3-0.

RESOLUTION NO. 29-03

ADOPTION OF NEW GENERAL ORDER 5.17, "POLICY PROHIBITING BIASED POLICING"

RESOLVED, that the Police Commission hereby adopts new General Order 5.17, "Policy Prohibiting Biased Policing."

AYES: Commissioners Perry, Chan, Friday

ABSENT: Commissioners Makras, Quaranta

REQUEST OF THE CHIEF OF POLICE FOR APPROVAL TO REQUEST FOR A SUPPLEMENTAL APPROPRIATION AMOUNTING TO $4,230,573 TO COVER UNANTICIPATED AND UNBUDGETED EXPENDITURES IN TWO AREAS: ANTI-WAR PROTESTS AND WORKERS' COMPENSATION CLAIMS

Captain Goldberg, Fiscal Unit, addressed the Commission explaining in detail the reason for the department's request for supplemental funds.

Commissioners Perry, Chan, and Friday asked Captain Goldberg a few questions which he responded to.

Commissioner Friday made a motion to approve request for supplemental appropriation. The motion was second by Commissioner Chan. The motion was approved 3-0.

RESOLUTION NO. 30-03

APPROVAL OF THE REQUEST OF THE CHIEF OF POLICE TO REQUEST FOR A SUPPLEMENTAL APPROPRIATION AMOUNTING TO $4,230,573 TO COVER UNANTICIPATED AND UNBUDGETED EXPENDITURES IN TWO AREAS: ANTI-WAR PROTESTS AND WORKERS' COMPENSATION CLAIMS

WHEREAS, a supplemental appropriation is required due to unanticipated and unbudgeted expenditures in two areas: Anti-war protests and Workers' Compensation claims; and

WHEREAS, $3,320,954 is for additional funding to pay for expenses directly related to the anti-war protests. The anti-war protests began in October of last year and have continued through the month of April. Of these expenses, 96 percent are for overtime. These expenses do not include the cost of on-duty police officers detained to these events, nor does it include the deferred costs for officers who have chosen to take compensatory time in-lieu of cash compensation; and

WHEREAS, additionally, the Department is requesting $909,619 in additional funding for workers' compensation claims. In the first half of the Fiscal Year, the number of new claims decreased by 16 percent and the number of new indemnity claims decreased by 26 percent. Although there was a decrease in the total number of claims, the cost of these claims increased by 16 percent, primarily due to medical inflation; and

WHEREAS, these expenses were unanticipated and unbudgeted and the Department has exhausted all other means to cover these deficits within its existing budget; therefore be it

RESOLVED, that the Police Commission hereby approves the request of the Chief of Police to request for a supplemental appropriation in the sum of $4,230,573.

AYES: Commissioners Perry, Chan, Friday
ABSENT: Commissioner Makras, Quaranta

PUBLIC COMMENTS

Mr. Ishmael Tarikh, Bay Area Police Watch, wanted to commend the collaborative efforts brought forth in creating the policy on racial profiling. He also asked that the same efforts be given to item #14 on the agenda and not to

dismiss any charges against any officer under Government Code 3304.

Mr. Mark Schlosberg, ACLU, spoke on the issue of several reports that have been submitted to the Commission within the past weeks, reports from the OCC and the Controller's office. The reports call for reforms within the Department regarding accountability.

HEARING ON THE MOTION FOR DISMISSAL OF DISCIPLINARY CHARGES FILED AGAINST INSPECTOR ARTHUR STELLINI, DOMESTIC VIOLENCE UNIT (FILE NO. C01-409 GRN), PURSUANT TO GOVERNMENT CODE 3304(d)

The hearing on the motion for dismissal of disciplinary charges filed against Inspector Arthur Stellini, Star No. 707, Domestic Violence Unit, was called it having been set for this date.

Mr. Geoffrey Spellberg, Attorney at Law, appeared on behalf of the San Francisco Police Department.

Inspector Arthur Stellini appeared in person and was represented by Mr. Robert Moore, Attorney at Law.

Mr. Spellberg presented oral arguments as to why the Commission should deny the motion to dismiss disciplinary charges filed against Inspector Stellini pursuant to Government Code 3304(d).

Mr. Moore presented oral arguments as to why disciplinary charges filed against Inspector Stellini should be dismissed pursuant to Government Code 3304(d).

The Commission then recessed and returned. Commissioner Perry asked Lieutenant Edward Geeter, Secretary to the Police Commission, to poll the Commissioners by a roll call vote. The Commissioners voted as follows:

Commissioner Connie Perry voted to deny the motion to dismiss the charges.
Commissioner Sidney Chan voted to deny the motion to dismiss the charges.
Commissioner Wayne Friday voted to grant the motion to dismiss the charges.

Based on the Commission's decision, the following resolution was adopted:

RESOLUTION NO. 31-03

DENIAL OF MOTION TO DISMISS DISCIPLINARY CHARGES FILED AGAINST INSPECTOR ARTHUR STELLINI, DOMESTIC VIOLENCE UNIT (FILE NO. C01-409 GRN), PURSUANT TO GOVERNMENT CODE 3304(d)

RESOLVED, that the Commission denies the motion to dismiss disciplinary charges filed against Inspector Arthur Stellini, Domestic Violence Unit (File No. C01-409 GRN), pursuant to Government Code 3304(d); and

FURTHER RESOLVED, that the Commission will not take any action regarding this matter for at least sixty (60) days.

AYES:	Commissioners Perry, Chan
NAYS:	Commissioner Friday
ABSENT:	Commissioners Makras, Quaranta

Thereafter, the meeting was adjourned at 6:35 p.m.

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
THE POLICE COMMISSION

1273/rct

SF
P45
#1
cancelled
5/7/03

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PEARY
PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT EDWARD GRETER
Secretary

CALENDAR OF PROCEEDINGS
POLICE COMMISSION MEETING
& Agenda

There will be no Police Commission meeting on Wednesday, May 7, 2003. The next Police Commission Regular Meeting will be on ***Wednesday, May 14, 2003***, at 5:30 p.m., in Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco.

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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, MAY 14, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

1. Pledge of Allegiance
2. Roll Call
3. Approval of Minutes for the Police Commission Meeting of April 30, 2003
4. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Officer Nicholas Bettencourt, Southern
   (File No. CCL 03-144)
5. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Officer Adam Choy, Central
   (File No. CCL 03-145)
6. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Officer Marcial Marquez, Southern
   (File No. CCL 03-148)
7. Police Commission Announcements
   a. Motion of Calendaring of New Items
8. Chief's Announcements and Review of Recent Department Events
9. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
10. Presentation of OCC's Second Quarter, 2002, Early Warning System Reports
11. Request of the Chief of Police for Approval to Apply for and Accept Retroatively, and Expend Funds from the California Office of Traffic Safety (OTS) to Implement the Occupant Protection Program
12. Public Comments
    (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

*There will be Public Comments on any item before or during discussion of each item.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

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MAY 14, 2003 **REGULAR MEETING**

The San Francisco Police Commission met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Friday
ABSENT: Commissioner Quaranta

APPROVAL OF MINUTES FOR THE POLICE COMMISSION MEETING OF APRIL 30, 2003

Motion by Commissioner Friday, second by Commissioner Chan. Minutes approved 4-0.

RESOLUTION NO. 32-03

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST OFFICER NICHOLAS BETTENCOURT, SOUTHERN (FILE NO. CCL 03-144)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Officer Nicholas Bettencourt, Star No. 1395, Southern, was called it having been set for this date; and

WHEREAS, Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Nicholas Bettencourt; therefore be it

RESOLVED, that Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Nicholas Bettencourt, and is to be set at a later date.

AYES: Commissioners Perry, Makras, Chan, Friday
ABSENT: Commissioner Quaranta

RESOLUTION NO. 33-03

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST OFFICER ADAM CHOY, CENTRAL (FILE NO. CCL 03-145)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Officer Adam Choy, Star No. 1285, Central, was called it having been set for this date; and

WHEREAS, Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Adam Choy; therefore be it

RESOLVED, that Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Adam Choy, and is to be set at a later date.

AYES: Commissioners Perry, Makras, Chan, Friday
ABSENT: Commissioner Quaranta

RESOLUTION NO. 34-03

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST OFFICER MARCIAL MARQUEZ, SOUTHERN (FILE NO. CCL 03-148)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Officer Marcial Marquez, Star No. 232, Southern, was called it having been set for this date; and

WHEREAS, Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Marcial Marquez; therefore be it

RESOLVED, that Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Marcial Marquez, and is to be set at a later date.

AYES: Commissioners Perry, Makras, Chan, Friday
ABSENT: Commissioner Quaranta

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry asked when is the next district/community meeting. Lieutenant Geeter, Commission Secretary, stated that the next scheduled district meeting will be on Wednesday, May 28th , in the Park District at the Public Library, 1833 Page Street.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Acting Chief Fagan reported that budget issues are being worked on and he hopes it will be completed by Friday, May 16th.

Chief Fagan also stated that he, Acting Assistant Chief Fong, and Captain O'Leary and others have been working with and plans to meet with the OCC to discuss the recommendations mentioned in four different reports on the Police Department.

Commissioner Perry and Commissioner Friday asked about plans of a new academy class. Chief Fagan stated that he will most likely know by Friday because an academy class is based on the budget. He stated the plan is to have an academy class of 46 cadets by late June and another academy class during the first quarter of the next fiscal year.

Commissioner Friday asked for the gender breakdown of the candidates. Chief Fagan stated he would get the information to him.

Commissioner Perry asked if the department had sold the helicopters and if the department got the price they asked for. Chief Fagan said that the helicopters were sold and that we did get the price asked for. Chief Fagan apologized for not notifying the Commissioners personally about the sale of the helicopters and that he had hope to retain them but budget concerns forced the sale.

Commissioner Perry asked what unit were the helicopter personnel reassisgned to. Chief Fagan stated that he is in discussion with Deputy Chief Bruce and Chief Fong on reassigning personnel.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Interim Director, reported that one of the OCC Attorneys, Ms. Cynthia Lie, will be leaving the OCC office effective May 23rd and that she will be accepting a position out of the country.

Director Allen also stated that the Board of Supervisors Rules Committee will go forward with his appointment and he will be appearing before the full board next week for confirmation.

Commissioner Friday stated that he watched Mr. Allen's appearance before the Rules Committee and felt that he handled himself very well in answering the questions.

PRESENTATION OF OCC'S SECOND QUARTER, 2002, EARLY WARNING SYSTEM REPORTS

Director Allen apologized to the Commission stating that the quarterly reports on the Early Warning System are two quarters behind. He stated that he had expressed to his staff the importance of the information and that it might be midsummer before the reports are on schedule.

Commissioner Makras noted that much of the data in the report were almost a year old, and that it needs to be said that if this kind of report had come from the other side, it would be a lot more hoopla.

Mr. Allen stated that he is aware of the situation and that was the reason he apologized up front, and that he will work to correct the backlog and further stated that this has been an unusual year for the OCC.

Commissioner Friday asked Chief Fagan of the process if, as listed in the report, an officer had 10 OCC complaints and another had six. Chief Fagan stated that the department knows if an officer has that number of complaints prior to the statistics being tabulated for the Commission and that the captain of the officer involved will have a conference with the officer and counsel the officer. Chief Fagan stated that that is one of the issues Captain O'Leary, Risk Management, is looking into. The Chief further stated that the Early Warning System Report is a very good management tool and a lot of meetings have taken place with Mark Schlosberg, ACLU, and others on this issue.

Commissioner Perry asked Mr. Allen for a report on the number of cases he has that are approaching the one year statute, at least those within 60 days of the one year statute.

Mr. Allen stated that he could possibly make a report by next week's meeting, May 21st, and if not, he would report on how much time he would need to put the report together.

REQUEST OF THE CHIEF OF POLICE FOR APPROVAL TO APPLY FOR AND ACCEPT RETROACTIVELY, AND EXPEND FUNDS FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY (OTS) TO IMPLEMENT THE OCCUPANT PROTECTION PROGRAM

Sergeant Dave Collins, Grant Unit, addressed the Commission and explained the Occupants Protection Program from the Office of Traffic Safety.

Commissioner Makras made a motion to approve the Chief's request to appl for and accept the funds form the California Office of Traffic Safety. The motion was second by Commissioner Chan. Motion approved 4-0.

RESOLUTION NO. 35-03

APPROVAL OF THE REQUEST OF THE CHIEF OF POLICE TO APPLY FOR RETROACTIVELY, ACCEPT, AND EXPEND FUNDS FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY (OTS) TO IMPLEMENT THE OCCUPANT PROTECTION PROGRAM

RESOLVED, that the Police Commission hereby approves request of the Chief of Police to retroactively apply for, accept, and expend funds from the California Office of Traffic Safety (OTS) to implement the Occupant Protection Program

AYES: Commissioners Perry, Makras, Chan, Friday
ABSENT: Commissioner Quaranta

PUBLIC COMMENTS

Inspector Lea Millitello and Officer Scott Hoey, SFPD Pride Alliance, addressed the Commission and spoke on two issues. First, they wanted to say thanks to the command staff and the Commission for their support this past week for deceased Officer Jon Cook, his parents and partner. Secondly, that on June 10th, the Pride Alliance will start a scholarship fund in the name of Officer Jon Cook. Through the fund, they will present an award named "The Ray L Benson Community Service Award" named after Officer Ray L. Benson who died of AIDS. Officer Benson was well-respected throughout the City for his community service. Inspector Millitello stated the first award will be presented to Commissioner Wayne Friday.

Ms. Andrea O'Leary addressed the Commission regarding dogs off leash in city parks. She asked the department to enforce the law of citing those who walk their dogs off leash in city parks.

Mr. William Dongol made a complaint against an officer who placed him in handcuffs for no reason.

Commissioner Perry advised him to speak with the OCC Director after the meeting.

The meeting was then adjourned at 6:10 p.m.

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
The San Francisco Police Commission

1273/rct

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Commissioner

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Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, MAY 21, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

1. Pledge of Allegiance
2. Roll Call
3. Approval of Consent Calendar
4. Police Commission Announcements
   a. Motion of Calendaring of New Items
5. Chief's Announcements and Review of Recent Department Events
6. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
7. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)
8. Hearing and Disposition on Disciplinary Charges filed against Officer Roy Michael Ramos, Bayview (File No. C02-273 JWA)
9. Disposition on Disciplinary Charges filed against Officer James T. Pandolfi, Support Services (File No. C01-366 JWA)

CONSENT CALENDAR

1. Request of Officer Stan Williams, Airport Bureau, for approval to accept a gift of $50.00 from Mrs. Miriam Rubinfeld

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

*There will be Public Comments on any item before or during discussion of each item.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE: DONNA HALL, ADMINISTRATOR, CITY HALL, ROOM 244, #1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4689; OFFICE (415) 554-5163; E-MAIL: Donna Hall@ci.sf.ca.us. COPIES OF THE SUNSHINE ORDINANCE CAN BE OBTAINED FROM THE CLERK OF THE SUNSHINE TASK FORCE, THE SAN FRANCISCO PUBLIC LIBRARY, AND ON THE CITY'S WEBSITE AT www.ci.sf.ca.us/bdsupvrs/sunshine

Lobbyist Registration and Reporting Requirements
Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Government Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; webs site www.sfgov.org/ethics.

SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

Communication accessibility services; including sign language Interpreters or computer aided real time captioning will be made available upon advance request. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406(tty), at least 72 hours prior to a proceeding. Late requests will be honored if possible.

A **sound enhancement system** will be available on request at the proceeding.

Meeting agendas and other print materials will be made available in **alternate formats** (computer disk, cassette tape, large print or Braille) upon advance request at least 72 hours at least 72 hours prior to a proceeding. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406 (tty). Late requests will be honored if possible.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call 553 1343 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products.

The proceeding will be held at the Hall of Justice, 850 Bryant Street, 5th floor Police Commission Hearing Room. The closest accessible BART station is 5th and Mission Streets. Accessible MUNI lines serving this location are 42 and 9X San Bruno Express.

For information about MUNI service call 923 6142

Accessible parking is available in front of the Hall of Justice, 850 Bryant Street.

Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

MAY 21, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:45 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

APPROVAL OF CONSENT CALENDAR

REQUEST OF OFFICER STAN WILLIAMS, AIRPORT BUREAU, FOR APPROVAL TO ACCEPT A GIFT OF $50.00 FROM MRS. MIRIAM RUBINFELD

Taken off calendar.

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry announced that the next Commission meeting will be held at the Public Library in the Park District, 1833 Page Street, on May 28, 2003.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Acting Chief Fagan announced that KRON will list the Police Department's Top 10 Most Wanted Criminals. This is a new program started by the Police Department.

Chief Fagan also stated that tomorrow, May 22, 2003, at 1:00 p.m., he will be meeting with the Board of Supervisors to discuss police accountability. He further stated that this evening several command staff members will meet with the School Board to discuss School Resource Officers (SRO).

Commissioner Friday asked what it meant for Homeland Security Readiness when we got to orange alert. Chief Fagan stated that the Department is always at the stage of readiness and that the only thing they do is to re-emphasize the importance of being vigilant.

Commissioner Chan asked if the Federal Government is paying for airport security. Deputy Chief Pengel stated that the Federal Government are currently paying for the added security at the airport. However, she stated, that the government will stop the extra security effective May 31st.

Chief Fagan presented a Certificate of Appreciation to Dr. Manley and his staff at SFGH for a job well done after the vehicle collision that took the life of Officer Jon Cook.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

OCC Director Kevin Allen reported on cases being investigated that are within 60 days of the one-year statute.

Commissioner Chan asked if the Commission could get a list that covers the whole year of 2002. The list provided had an ending date of July 2, 2002. Director Allen stated that he would get a copy of the whole year of 2002 and that he stopped on July 2, 2002 because the Commission had asked for the number of cases that was within 60 days of the one-year statute.

Director Allen informed the Commission that he had appeared in front of the board of Supervisors and was confirmed by 10 to 0 vote. One supervisor did not vote.

PUBLIC COMMENTS

Barry Toronto, taxicab driver, spoke on two issues involving taxis. He stated that an officer with star No. 1582 was treating taxi drivers rudely while directing traffic in front of the Asian Arts Museum.

HEARING AND DISPOSITION ON DISCIPLINARY CHARGES FILED AGAINST OFFICER ROY MICHAEL RAMOS, BAYVIEW (FILE NO. C02-273 JWA)

Put over to June 4, 2003 in order for Officer Ramos to meet with the Retirement Board on May 30, 2003.

DISPOSITION ON DISCIPLINARY CHARGES FILED AGAINST OFFICER JAMES T. PANDOLFI, SUPPORT SERVICES (FILE NO. C01-366 JWA)

The hearing of Police Officer James T. Pandolfi, Star No. 699, Support Services, was called it having been set for this date. Officer Pandolfi was charged, in a properly verified complaint by Fred H. Lau, Former Chief of Police of San Francisco Police Department, with violating the Rules and Procedures as follows:

SPECIFICATION NO. 1
[Domestic Violence] Engaging in conduct which subverts the good order and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 2
[Stalking and Harassing] Engaging in conduct which subverts the good order and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 3
[Perjury] Engaging in conduct which subverts the good order and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 4
[Untruthful in MCD interview] Failure to answer truthfully and without evasion when questioned by a supervisor (violation of Rule 21 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 5
[Domestic Violence] Engaging in conduct which subverts the good order and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 6
[Domestic Violence] Engaging in conduct which subverts the good order and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 7
[Untruthful in MCD interview] Failure to answer truthfully and without evasion when questioned by a supervisor (violation of Rule 21 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 8
[Illegal access to CLETS computers] Engaging in conduct which subverts the good order and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

Mr. Jerry W. Akins, Attorney at Law, appeared on behalf of the San Francisco Police Department.

Officer James Pandolfi appeared in person and was represented by Mr. James Collins, Attorney at Law.

Mr. Akins entered a motion to amend the charges, withdrawing Specifications No. 2, 3, 4, 6, and 7.

Officer Pandolfi admitted to the truth of the allegations contained in Specifications No. 1, 5, and 8 and accepts responsibility for his actions.

The Commission recessed and returned and unanimously accepted the plea of Officer Pandolfi and the Commission approved the department's motion to amend the charges by withdrawing Specifications No. 2, 3, 4, 6, and 7.

Based on Officer Pandolfi's admission, the Commission requested a recommendation from Acting Chief of Police Alex Fagan.

It is the recommendation of Acting Chief of Police Alex Fagan that Officer Pandolfi be terminated, with termination held in abeyance for two (2) years on the following conditions: That Officer Pandolfi be suspended for one hundred eighty (180) days [forty-five (45) days on Specification No. 1, forty-five (45) days on Specification No. 5, and ninety (90) days on Specification No. 8] with ninety (90) days imposed forthwith and ninety (90) days held in abeyance for the two (2) years; and that Officer Pandolfi participate in a domestic violence program approved by the Commanding Officer of the Staff Services Division and that Officer Pandolfi execute a waiver and release of participation information to the Commanding Officer of the Staff Services Division, but not a waiver as to the content of his statements during his participation in the program; and that he not engage in any serious acts of misconduct.

The Commission recessed and returned. Commissioner Perry stated that Officer Pandolfi has admitted to Specifications No. 1, 5, and 8 and the Commission accepts the plea but not the recommended penalty. It is the decision of the Commission that Officer Pandolfi be suspended for ninety (90) days on each specifications for a total of two hundred seventy (270) days to be served forthwith and imposed a five (5) year probation.

Mr. Collins asked the Commission that he be allowed to withdraw the admitted plea and stated that the admission was based on the agreed disposition.

Mr. Akins asked if Mr. Collins would like to discuss the issue with Officer Pandolfi. The Commission granted Mr. Collins time to discuss the issue with his client.

Upon Mr. Collins' return, he asked the Commission to consider the

following compromise: That Officer Pandolfi be suspended for one hundred twenty (120) days with a five (5) year probation.

The Commission again recessed and deliberated. Upon returning, the Commission rejected the proposed compromise and stated the imposed penalty stands.

Mr. Collins made a motion to withdraw Officer Pandolfi's admissions.

Commissioner Chan made a motion to consider the motion to withdraw the plea. The motion was second by Commissioner Makras.

Upon consideration, the Commission denied the motion to withdraw the plea.

The Commission took the matter under submission and the following resolution was adopted:

RESOLUTION NO. 36-03

DECISION - HEARING OF OFFICER JAMES T. PANDOLFI, SUPPORT SERVICES (FILE NO. C01-366 JWA)

WHEREAS, on October 10, 2001, Fred H. Lau, Former Chief of Police of the San Francisco Police Department, made and served charges against Officer James T. Pandolfi, as follows:

SPECIFICATION NO. 1:
[Domestic Violence] Engaging in conduct which subverts the good order and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

(1) At all times herein mentioned, James T. Pandolfi, Star Number 699 (hereinafter referred to as "the accused") was and is a police officer employed by the San Francisco Police Department and is now assigned to the Field Operations Bureau, Mission District.

(2) As a police officer, the accused was and is responsible for knowing and obeying the rules, orders, and procedures of the San Francisco Police Department.

(3) The Accused became a member of the San Francisco Police Department on June 26, 1995. He was assigned to Mission Station on July 1, 1995 and then assigned to Central Station on October 7, 1995.

(4) During October 1995, after the accused was assigned to Central Station, the accused and another officer were dispatched to a call from two young women who believed that they were being stalked. The accused and one of the women (Victim One), who lived in Seattle, Washington, exchanged telephone numbers and struck up a friendship. The relationship developed and on February 12, 1996, Victim One moved from Seattle to Daly City and the accused and Victim One moved into a townhouse in the Crown Colony apartments in Daly City, California.

(5) As the relationship developed, the accused restricted Victim One's activities and would not permit Victim One to visit friends or to continue as a member of a physical fitness gym. In the fall of 1996, the accused and Victim One argued about the accused becoming drunk and driving his automobile. In the course of the argument, the accused slapped Victim One, threw her on a bed, pinned her down to the bed,

and strangled her with his hands. Victim One sustained bruises and abrasions to her neck from this incident.

(6) Near Thanksgiving 1997, the accused and Victim One were arguing as they were standing at the top of a flight of stairs. Victim One told the accused that she was considering moving back to Seattle, Washington. The accused became upset, grabbed Victim One by the shoulders with both hands and pushed her hard against a wall. Victim One bounced off the wall and fell down the flight of stairs. The accused then walked down the stairs, stepped over Victim One and left the apartment. In the fall down the stairs, Victim One received bruises and injured her leg, causing her ankle to swell and making her walk with a limp.

(7) The accused by slapping Victim One, then throwing her on the bed, sitting on her and strangling her and, on another occasion, by grabbing Victim One by the shoulders and pushing her into a wall causing her to fall down a flight of stairs resulting in traumatic injuries, engaged in conduct which in a criminal context constitute assaults and batteries as defined in Penal Code §§ 240 and 242 which state:

> *"§240. An assault is an unlawful attempt, coupled with a present ability to commit a violent injury on the person of another."*
>
> *§242. A battery is any willful and unlawful use of force or violence upon the person of another."*

(8) The accused, by slapping Victim One, throwing her on the bed, then sitting on her and strangling her with his hands, and on another occasion by grabbing Victim One by the shoulders and pushing her into a wall causing her to fall down a flight of stairs resulting in traumatic injuries, has engaged in conduct which constitutes an "infliction of injury on any person with whom he is cohabiting" as defined in Penal Code Section 273.5, which states:

> *"273.5. (a) Any person who willfully inflicts upon his or her spouse, or any person who willfully inflicts upon any person of the opposite sex with whom he or she is cohabiting, or any person who willfully inflicts upon any person who is the mother or father of his or her child, corporal injury resulting in a traumatic condition, is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 3, or 4 years, or in a county jail for not more than one year, or by a fine of up to six thousand dollars ($6,000) or by both."*
>
> . . .
>
> *©) As used in this section, "traumatic condition" means a condition of the body, such as a wound or external or internal injury whether of a minor or serious nature, caused by a physical force."*

(9) The accused, by slapping Victim One, throwing her on the bed and then sitting on her while he strangled her with his hands; and, on another occasion, by grabbing Victim One by the shoulders and pushing her into a wall causing her to fall down a flight of stairs resulting in traumatic injuries, engaged in conduct which, in a criminal context, violates Penal Code Sections 240, 242, and 273.5 as alleged above; any reasonable police officer must now that such conduct would be cause for discipline or dismissal whether specifically described in a rule or not, and therefore the accused's conduct in this respect violated Rule 9 of Department General Order 2.01 of the San Francisco Police Department, which states:

> *"MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct on the part of an officer either within or without the State that tends to subvert the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to*

the efficiency an discipline of the Department, though not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."

~~SPECIFICATION NO. 2~~
~~[Stalking and Harassing] Engaging in conduct which subverts the good order and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).~~

~~(10) The allegations contained in paragraphs 1 through 5 above are realleged herein by reference as though set forth in full.~~

~~(11) In March 1998, Victim One moved her belongings and residence from the apartment she shared with the accused in Daly City, California. The accused started telephoning Victim One on a cellular telephone she carried. Victim One could not leave the phone turned on because the accused would repeatedly telephone her on it. The accused also repeatedly called her on the telephone at Victim One's place of employment. Victim One hung up the phone when the accused called her, but he kept calling her. When she asked him to stop calling her, he became upset and berated her in a loud voice. The accused repeatedly paged Victim One until she finally had the telephone number on her pager changed.~~

~~(12) During telephone calls to Victim One at her place of employment, the accused would "push her buttons" in order to get her upset. In telephone calls to her place of employment, the accused threatened Victim One, warning her that she should "watch her back," which Victim One understood to mean that she might be made to "disappear," which the accused had threatened Victim One with during arguments throughout the relationship. Because Victim One became upset and emotional as a result of the persistent telephone calls from the accused, her employers took disciplinary action against her, and her job was threatened.~~

~~(13) California Penal Code Section 653m states:~~

> ~~*"653m. Harassing by Telephone*~~
>
> ~~*(a) Every person who, with intent to annoy, telephones or makes contact by means of an electronic communication device with another and addresses to or about the other person any obscene language or addresses to the other person any threat to inflict injury to the person or property of the person addressed or any member of his or her family, is guilty of a misdemeanor. Nothing in this subdivision shall apply to telephone calls or electronic contacts made in good faith.*~~
>
> ~~*(b) Every person who makes repeated telephone calls or makes repeated contact by means of an electronic communication device with intent to annoy another person at his or her residence is, whether or not conversation ensues from making the telephone call or electronic contact, guilty of a misdemeanor. Nothing in this subdivision shall apply to telephone calls or electronic contacts made in good faith."*~~
>
> ~~*©) Every person who makes repeated telephone calls or makes repeated contact by means of an electronic communication device with the intent to annoy another person at his or her place of work is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment. Nothing in this subdivision shall apply to telephone calls or electronic contacts made in good faith. This subdivision applies only if one or both of the following circumstances exist:*~~
>
> > ~~*(1) There is a temporary restraining order, an injunction, or any other court order, or any combination of these court orders, in*~~

effect prohibiting the behavior described in this section.

(2) The person makes repeated telephone calls or makes repeated contact by means of an electronic communication device with intent to annoy another person at his or her place of work, totaling more than 10 times in a 24-hour period, whether or not conversation ensues from making the telephone call or electronic contact, and the repeated telephone calls or electronic contacts are made to the workplace of an adult or fully emancipated minor who is a spouse, former spouse, cohabitant, or person with whom the person has a child or has had a dating or engagement relationship or is having a dating or engagement relationship."

(14) After Victim One moved out of the apartment in Daly City which she had shared with the accused, some of her mail was not forwarded by the United States Postal Service but was delivered to the apartment. On April 29, 1998, Victim One went to the apartment by prearrangement to pick up her mail. After she retrieved her mail from the accused she met with a female friend who also lived in the apartment complex. After they talked for a couple of hours, the friend walked Victim one to her car in the parking lot as it was dark. On the way to her car, they came on the accused and another woman. The female friend made a comment to the accused that he was "an ugly white alien." The accused pushed Victim One and got very close to the female friend's face and warned her that he "makes a very bad enemy." Victim One thought that the accused would strike her friend.

(15) The accused, by stalking and harassing Victim One, engaged in conduct which in a criminal context violates Penal Code Section 653m as alleged above; any reasonable police officer must know that such conduct would be cause for discipline or dismissal whether specifically described in a rule or not, and therefore the accused's conduct in this respect violated Rule 9 of Department General Order 2.01 of the San Francisco Police Department, which states:

"MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct on the part of an officer either within or without the State that tends to subvert the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency an discipline of the Department, though not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."

SPECIFICATION NO. 3

[Perjury] Engaging in conduct which subverts the good order and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

(16) The allegations contained in paragraphs 1 through 8 above all realleged herein by reference as though set forth in full.

(17) While Victim One and the accused shared an apartment in Daly City the next door neighbors made complaints of noise coming from the apartment shared by the accused and Victim One. The accused took a dislike to the neighbors.

(18) Sometime within approximately one week of November 5, 1997, the accused wrote a fictitious ticket using a San Francisco Police Department "Notice of Parking Violation" form. The signature box for the officer completing the citation states, directly above the signature line, "*I certify under penalty of perjury that the foregoing is true and correct. Executed at the place on the date shown above.*" The fictitious ticket alleged the vehicle was parked in a such a manner as to violate the California Vehicle Code for "parking near a ramp for

handicapped (3 ft.) 22522VC, $275." The accused wrote on the notice that the neighbor's automobile was parked in a handicapped zone at 16th an Mission Streets in San Francisco and that it was so parked on November 5, 1997. On the ticket he correctly listed the license plate and description of the neighbor's gold colored Honda Civic automobile.

(19) The neighbors' automobile was not parked at 16th Street and Mission Street on November 5, 1997, or any other day. The neighbors never received the ticket, but did get a notice from the Department of Parking and Traffic Control of the penalty amount due for the parking violation. The accused has admitted that the car was not parked at that place or on that date.

(20) California Penal Code Section 118(a), states that:

> *"Section 118 What Constitutes Perjury*
> *Every person who, having taken an oath that he or she will testify, declare, depose, or certify truly before any competent tribunal, officer, or person, in any of the cases in which the oath may by law of the State of California be administered, willfully and contrary to the oath, states as true any material matter which he or she knows to be false, and every person who testifies, declares, deposes, or certifies under penalty of perjury in any of the cases in which the testimony, declarations, depositions, or certification is permitted by law of the State of California under penalty of perjury and willfully states as true any material matter which he or she knows to be false, is guilty of perjury.*
>
> *This subdivision is applicable whether the statement, or the testimony, declaration, deposition, or certification is made or subscribed within or without the State of California."*

(21) California Penal Code Section 118.1 states:

> *"Section 118.1 False Report Filed by Peace Officer.*
> *Every Peach Officer who filed any report with the agency which employs him or her regarding the commission of any crime or any investigation of any crime, if he or she knowingly and intentionally makes any statement regarding any material matter in the report which the officer knows to be false, whether or not the statement is certified or otherwise expressly reported as true, is guilty of filing a false report punishable by imprisonment in the county jail for up to one year, or in the state prison for one, two, or three years. This section shall not apply to the contents of any statement which the peace office attributes in the report to any other person."*

(22) The accused, by falsely certifying under penalty of perjury on a "Notice of Parking Violation" that an automobile which had not been parked at 16th and Mission Streets, in San Francisco, was parked within 3 feet of a handicapped access ramp at that location on November 5, 1997, engaged in conduct which is a criminal context violates California Penal Code Sections 118(a) and 118.1, any reasonable police officer must know that such conduct violates the standards of the department and is cause for discipline or dismissal from employment; therefore, such conduct violates Rule 9 of Department General Order 2.01, which states:

> *"MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct on the part of an officer either within or without the State that tends to subvert the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency an discipline of the Department, though not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."*

SPECIFICATION NO. 4
[Untruthful in MCD interview] Failure to answer truthfully and without evasion when questioned by a supervisor (violation of Rule 21 of Department

~~General Order 2.01 of the San Francisco Police Department).~~

~~(23) The allegations contained in paragraphs 1 through 21 above are realleged herein by reference as though set forth in full.~~

~~(24) In the course of an interview of Victim One by the Management Control Division, she stated that while they were living together, the accused had told her that he had issued or caused another officer to issue a "flyer," a fictitious parking ticket, for the next door neighbors' automobile for parking in a handicapped zone. On April 13, 2000, the accused was interviewed in the Management Control Division concerning this matter. The accused was questioned about the fictitious ticket he wrote regarding his neighbors' automobile being parked in a handicapped zone at 16th and Mission Streets on November 5, 1997. The accused vehemently denied any knowledge of the ticket, the circumstances surrounding the issuance of the ticket, and denied knowing the information describing the neighbor's automobile. He also denied that he had discussed the issuance of the fictitious ticket to the neighbors with Victim One.~~

~~(25) Sixteenth and Mission Streets is located in the Mission Police District. The accused, was assigned to the Ingleside District at the time the ticket was issued during November 1997.~~

~~(26) On April 13, 2000, during the course of Management Control Division investigators' questioning of the accused after he had vehemently denied issuing or causing the issuance of the subject ticket, the accused requested a break so he could leave the presence of the investigators and consult with his representative. The request was granted and when the accused returned after a twenty minute break, he gave a different account of his knowledge of the ticket dated on November 5, 1997.~~

~~(27) After returning from the break, the accused said that he wrote the ticket about a week after seeing the neighbor's car parked illegally in the Ingleside District while he was on duty and on patrol in the Ingleside District. He stated that he did not have a ticket with him and that he thoroughly searched his patrol car looking for a blank ticket but could not find one. He stated that he thought about it a week later and issued the ticket because he "did not like them [the neighbors] very much." He stated that he wrote the ticket, stating under penalty of perjury that he saw his neighbors car illegally parked in the Mission District on November 5, 1997, when that was not the case and that he knew it was wrong.~~

~~(28) By not telling the truth on April 13, 2000, when interviewed by Management Control Division investigators regarding his knowledge and responsibility for issuing the ticket dated November 5, 1997 and by then changing his story and stating that he saw the violation but that it was in the Ingleside District when he wrote the ticket and on another date, the accused violated Rule 21 of Department General Order 2.01 of the San Francisco Police Department, which states:~~

> ~~*"COOPERATION WITH INVESTIGATORS. Members shall, when questioned on matters relating to their employment with the Department by a superior officer or by one designated by a superior officer or by a member of the Office of Citizen Complaints, answer all questions truthfully and without evasion . . ."*~~

SPECIFICATION NO. 5

[Domestic Violence] Engaging in conduct which subverts the good order and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco

Police Department).

(29) The allegations contained in paragraphs 1 through 5 above are realleged herein by reference as though set forth in full.

(30) At the end of his relationship with Victim One, the accused commenced a relationship with another woman, Victim Two. The accused met Victim Two on April 25, 1998, Victim Two moved into the accused's apartment in Daly City, California, in July or August of 1998. In February or March 1999, the accused and Victim Two moved to San Francisco and resided there together.

(31) In July and August of 1999, the relationship between the accused and Victim Two began to wane. Finally, in September 1999, the accused told Victim Two to leave, but she did not have the means to set up a new household so the accused agreed that Victim Two could remain at the accused's residence for two months to get on her feet so she could move to a new residence.

(32) During this ambiguous stage in the relationship, the accused and Victim Two began to argue and on October 8, 1999, in the course of an argument, the accused grabbed Victim Two, threw her on the bed in their bedroom and strangled her with his hands while sitting on her body with her shoulders pinned to the bed with his knees. Victim Two got away form the accused and called 911 on the telephone. The accused took the telephone away from her and terminated the call. 911 dispatch called back and the accused told them it was a mistake.

(33) During November 1999, Victim Two was still moving her belongings out of the house. She came to the house they had shared in San Francisco, when she went upstairs in the house to retrieve some of her belongings from the bedroom, the accused grabbed her, put her in a bear hug from behind and dragged her across the floor.

(34) The accused by throwing Victim Two on the bed and then restraining her by sitting on her while he strangled her with his hands resulting in traumatic injuries on October 8, 1999, engaged in conduct which in a criminal context violates Penal Code Sections 240, 242, and 273.5 as alleged above; any reasonable police officer must know that such conduct would be cause for discipline or dismissal whether specifically described in a rule or not, and therefore the accused's conduct in this report violated Rule 9 of Department General Order 2.01 of the San Francisco Police Department, which states:

> *"MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct on the part of an officer either within or without the State that tends to subvert the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency an discipline of the Department, though not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."*

~~SPECIFICATION NO. 6~~
~~[Domestic Violence] Engaging in conduct which subverts the good order and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).~~

~~(35) The allegations contained in paragraphs 1 through 5 of Specification No. 1 and specifications 30 through 33 of Specification No. 5, above, are realleged herein by reference as though set forth in full.~~

(36) On December 22, 1999, Victim Two went to the accused's house in the early morning after calling him to tell him she was coming over to see him. When she arrived there was another woman's car in the driveway. Victim Two became upset and let the air out of three of the car's tires. The accused exited the house, grabbed Victim Two by the hair, berated her verbally, when she fell to the ground, the accused pushed her face into the ground scraping her face and causing an abrasion.

(37) The accused, by attacking Victim Two and pushing her face into the street, engaged in conduct which in a criminal context violates Penal Code Sections 240, 242, and 273.5 as alleged above; any reasonable police officer must kn ow that such conduct would be cause for discipline or dismissal whether specifically described in a rule or not, and therefore the accused's conduct in this respect violated Rule 9 of Department General Order 2.01 of the San Francisco Police Department, which states:

"MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct on the part of an officer either within or without the State that tends to subvert the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency an discipline of the Department, though not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."

SPECIFICATION NO. 7
[Untruthful in MCD interview] Failure to answer truthfully and without evasion when questioned by a supervisor (violation of Rule 21 of Department General Order 2.01 of the San Francisco Police Department).

(38) The allegations contained on paragraphs 1 through 5 of Specification No. 1 and paragraphs 30 through 37, above, are realleged herein by reference as though set forth in full.

(39) On April 13, 2000, the accused was interviewed by the Management Control Division regarding allegations that he physically abused Victim Two on October 8, 1999 and on December 22, 1999. The accused vehemently denied that he physically abused Victim Two on October 8, 1999, stating that he merely stood in front of her to prevent her from entering the house. The accused denied physically abusing Victim Two on December 22, 1999, and denied that he had even seen her on December 22, 1999.

(40) By not telling the truth on April 13, 2000, when interviewed by Management Control Division investigators regarding his physical abuse of Victim Two on October 8, 1999 and again on December 22, 1999, the accused violated Rule 21 of Department General Order 2.01 of the San Francisco Police Department, which states:

"COOPERATION WITH INVESTIGATORS. Members shall, when questioned on matters relating to their employment with the Department by a superior officer or by one designated by a superior officer or by a member of the Office of Citizen Complaints, answer all questions truthfully and without evasion . . ."

SPECIFICATION NO. 8
[Illegal access to CLETS computers] Engaging in conduct which subverts the good order and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

(41) Each and every allegation contained in paragraphs (1) through (8), inclusive, of Specification No. 1 above is incorporated herein by

reference and is realleged as though set forth in full.

(42) On June 12, 1998, the San Francisco Police Department published Department Bulletin Number 99-112, restating department policy and State of California policy and law concerning use of department computer terminals connected to the California Law Enforcement Telecommunications System (CLETS); the Bulletin specifically reminded each member that making curiosity queries to the CLETS are grounds for disciplinary action.

(43) On November 23, 1995, the accused was required to sign for copy of a memorandum dated May 22, 1994 and entitled "New Security Program for Cable," which included materials, which detained the consequences for personal use of CLETS computer information.

(44) California Government Code Section 15153 limits use of the CLETS to official business:

"The system shall be under the direction of the Attorney General, and shall be used exclusively for the official business of the state, and the official business of any city, county, city and county, or other public agency."

The rules promulgated by the Attorney General in the form of "CLETS POLICIES, PRACTICES AND PROCEDURES" provide in Section 1.6.4:

"Confidentiality of CLETS Messages

Any information transmitted or received via CLETS is confidential and for official use only by authorized law enforcement or criminal justice personnel. [emphasis in original]

A. Access to CLETS information is on a "right to know" and "need to know" basis. [Emphasis in original]

B. Authorized Personnel shall not inquire into their own record or have someone inquire for them.

C. Accessing and/or releasing CLETS information for non-law enforcement purposes is prohibited and subject to administrative action and/or criminal prosecution.

. . ."

(45) During his relationship with Victim One, between October 1995 and March 1998, the accused accessed the CLETS computers to get CLETS information concerning Victim One. The access of CLETS to determine if Victim One had a criminal history was done for personal reasons and not for any official police purpose.

(46) During his relationship with Victim One, between October 1995 and March 1998, the accused accessed the CLETS computers to get CLETS information concerning his own license plate. The access of his own license plate records was done for personal reasons and not for any official police purpose.

(47) During his relationship with Victim One, between October 1995 and march 1998, the accused accessed the CLETS computers to get CLETS information concerning his brother. The access of the accused's brother's criminal history records was done for personal reasons and not for any police purpose.

(48) During his relationship with Victim Two, between April 1998 and November 1999, the accused accessed the CLETS computers to get CLETS information concerning Victim Two. The access to CLETS to determine if Victim Two had a criminal history was done for personal reasons and not for any official police purpose.

(49) Commencing on October 1995, through November 1999, as stated above, the accused used department computer terminals to access the CLETS data bases in violation of San Francisco Police Department policy and procedures, also in violation of the California Government Code and the California Penal Code and in violation of the agreement between the State of California and the Police Department governing the use of the CLETS.

(50) The accused was authorized to access the CLETS for official business reasons connected with his employment as a San Francisco Police Officer, however, the accused was not authorized to access the computer databases included in the CLETS system for his own personal reasons and his conduct in this connection violated Penal Code Section 502©) subdivisions (2) (3) and (7) which state:

> *"©) Except as provided in subdivision (h), any person who commits any of the following acts is guilty of a public offense:*
>
> *(2) Knowingly accesses and without permission takes, copies, or makes use of any data from a computer system, or computer network, or takes or copies any supporting documentation, whether existing or residing internal or external to a computer, computer system, or computer network.*
>
> *(3) Knowingly and without permission uses or causes to be used computer services.*
>
> *. . .*
>
> *(7) Knowingly and without permission accesses or causes to be accessed any computer, computer system, or computer network."*

(51) The accused, by accessing the CLETS computer data bases to make personal inquiries, has engaged in conduct which constitutes violations of department written orders, Government Code Section 15153 and Penal Code Section 502 subsections ©) (2), 93) and (7), which subverts the good order, efficiency and discipline of the department and brings discredit on the department constituting a violation of Rule A-9 of General Order D-1 of the San Francisco Police Department, which states:

> *"MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct on the part of an officer either within or without the State that tends to subvert the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency an discipline of the Department, though not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."*

WHEREAS, a hearing on said charges was held before the Police Commission pursuant to Appendix A. Section A 8.343 of the Charter of the City and County of San Francisco on May 21, 2003, where the matter was submitted to the Police Commission for decision; and

WHEREAS, based on Officer James T. Pandolfi's admission, the Commission finds the allegations contained in Specifications No. 1, 5, and 8 of the disciplinary charges as preferred by Former Chief of Police Fred H. Lau against Officer Pandolfi are sustained and disposed of as follows:

SPECIFICATION NO. 1	Sustained
SPECIFICATION NO. 2	Withdrawn
SPECIFICATION NO. 3	Withdrawn
SPECIFICATION NO. 4	Withdrawn
SPECIFICATION NO. 5	Sustained
SPECIFICATION NO. 6	Withdrawn
SPECIFICATION NO. 7	Withdrawn
SPECIFICATION NO. 8	Sustained

And the Commission adopts the sustained specifications as its findings in this matter; therefore be it

RESOLVED, that based on these findings, consistent with the Commission's duty to protect the health, safety, and general welfare of the citizens of the City and County of San Francisco and the public in general, and in order to promote efficiency and discipline in the San Francisco Police Department, the Police Commission orders the following discipline be imposed:

That Officer Pandolfi be suspended for ninety (90) days on each specification for a total of two hundred seventy (270) days to be served forthwith; and that Officer Pandolfi be placed on five (5) year probation.

FURTHER RESOLVED, that said two hundred seventy (270) day suspension shall commence at 0001 hours on Thursday, May 22, 2003, and terminate on Monday, February 16, 2004, at 2400 hours.

If this decision is subject to review under Code of Civil Procedure section 1094.5, then the time and within which judicial review must be sought is governed by California Code of Civil Procedure, section 1094.6.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

Thereafter, the meeting was adjourned at 7:05 p.m.

Lt. Edward Geeter, #1273

_____

Lieutenant Edward Geeter
Secretary
THE POLICE COMMISSION

1273/rct

San Francisco Police Commission
&
Park Police Station

=Agenda

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MAY 27 2003
SAN FRANCISCO
PUBLIC LIBRARY

Is Hosting a Meeting
of the
San Francisco Police Commission
&
Citizens of Park District
Wednesday
May 28, 2003, 6:00 PM

PAGE STREET LIBRARY
1833 PAGE STREET

This is an opportunity for citizens of the Park District to address the Police Commission on matters of interest and concern.
A public comment period will follow.

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA
REGULAR MEETING
WEDNESDAY, MAY 28, 2003
6:00 p.m.

PARK DISTRICT
PAGE STREET LIBRARY
1833 Page Street
San Francisco

1. Pledge of Allegiance
2. Roll Call
3. Approval of Minutes for Police Commission Meeting of May 14, 2003
4. Police Commission Announcements
   a. Motion of Calendaring of New Items
5. Chief's Announcements and Review of Recent Department Events
6. OCC Director's Report re: Staffing, Budget and Summary of Recent Events
7. Captain Dan Lawson, Commanding Officer of Park Station, to address the Commission on Police Activities in the Park District
8. Public Comments
   (Members of the public may address the Commission for up to 3 minutes for individuals or up to 5 minutes for groups. The President of the Commission may limit the total testimony time.)

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

**There will be Public Comments on any item before or during discussion of each item.*

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE: DONNA HALL, ADMINISTRATOR, CITY HALL, ROOM 244, #1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4689; OFFICE (415) 554-7724; FAX (415) 554-5163; E-mail: Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine

Lobbyist Registration and Reporting Requirements
Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Government Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; webs site www.sfgov.org/ethics.

PUBLIC MEETING/HEARING
ACCESSIBILITY INFORMATION

- American sign language interpreters will be available upon request. Please contact Sgt. Michael Sullivan, at 553 1343, at least 72 hours prior to a proceeding. Late requests will be honored if possible.

- A sound enhancement system will be available upon request at the proceedi Please contact Sgt. Michael Sullivan, at 553 1343 at least 72 hours prior to a proceeding.
  Late requests will be honored if possible.

- Minutes of the proceedings are available in alternative formats. If you require the use a reader during the meeting, please contact Sgt. Michael Sullivan, at 553 1343 at least 72 hours prior to a proceeding. Late requests will be honored if possible.

- Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (415) 252 3112 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

- The proceeding will be held at Park Branch Library 1833 Page Street, San Francisco.
  The closest accessible BART n/a.
  Accessible MUNI lines serving this location are Line 66 and 71, Line 43.
  Non-Accessible Lines 6 and 7

For information about MUNI service call 923 6142.

- Accessible parking is available at the following location: _____

- Accessible seating for persons with disabilities and wheelchairs will be availat

- For information about the meeting call 553-1667 Voice, or 553 9194 TDD.

San Francisco Police Department

MAY 28, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in the Park District at the Page Street Library, 1833 Page Street, San Francisco, at 6:05 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

Each Commissioners introduced themselves and gave a brief bio.

Acting Chief Fagan introduced himself and his command staff. Present were Acting Assistant Chief Fong, Deputy Chief Bruce, Deputy Chief Suhr, Commander Harper, Commander Putz, Commander Dudley, Commander Brown and Commander Hom.

APPROVAL OF MINUTES FOR THE POLICE COMMISSION MEETING OF MAY 14, 2003

Commissioner Chan made a motion to approve the minutes from the May 14th meeting. Second by Commissioner Makras. Minutes approved 5-0.

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

None

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Acting Chief Fagan introduced Commander Hom who reported on the department's DUI Operation over the Memorial Day weekend. The operation was a roving, multi-district DUI operation. On Friday, May 23rd, from 3:00 p.m. to 1:00 a.m., which resulted in 4 DUI arrests, 8 vehicles impounded, and 47 citations issued. On Monday, May 26th, a stationary DUI checkpoint was conducted in conjunction with the CHP at Harrison Street, between 6th and 7th Streets, which resulted in 1400 vehicles stopped, 8 field sobriety tests, 2 DUI arrests, 7 non-DUI arrests, 11 vehicle towed, and 27 moving citations.

OCC DIRECTOR'S REPORT RE: STAFFING, BUDGET, AND SUMMARY OF RECENT EVENTS

OCC Director Kevin Allen reported that the OCC has met with Chief Fagan and Captain O'Leary to discuss issues. He stated the meetings are going well. He also reported on the status of cases being investigated by the OCC.

CAPTAIN DAN LAWSON, COMMANDING OFFICER OF PARK STATION, TO ADDRESS THE COMMISSION ON POLICE ACTIVITIES IN THE PARK DISTRICT

Captain Lawson, Commanding Officer of Park Station, addressed the Commission and the public describing police activities within the Park District.

Captain Lawson introduced Inspector Danker who presented Certificates of Appreciation to two citizens, Mr. Nathaniel Woods an Ms. April Molinelli, who came to the rescue of a victim who was being assaulted on November 18, 2002.

PUBLIC COMMENTS

Unidentified, Twin Peaks Improvement Association, thanked Captain Lawson and the officers of the district for doing a great job. He also asked if

the district could get back their speed meter trailer.

Karen Crony wanted to impress the importance of a few issues. First, the upcoming Haight Street Fair. She stated that most of the problems occur after the street fair is over. Second, the parking problem within the district. Third, the sound level coming form the park during certain festivals.

Mike Nicolas thanked Captain Lawson and Sergeant Porto for their assistance in a fraud case he is involved in. He also thanked Officers McIntosh, Shanahan, Woods, and Inspector Zerga for their assistance during a burglary incident.

Unidentified discussed concerns regarding citations issued on his neighborhood block for blocking their own driveways. Captain Lawson stated that most likely the Department of Traffic or police officers respond to complaints when blocks are cited. The Captain asked the gentleman to contact him to see what can be done.

Karen Fisken, a long time resident, thanked Captain Lawson and hopes that he remain at Park Station for a long time.

Unidentified discussed concerns regarding motorcycle parking spaces versus auto parking space. She asked that parking for motorcycles should be placed in front of cafes or restaurants.

Estella Fusar welcomed the Commissioners and the police to the district and is pleased to see them.

James Speck, Director of the Haight Ashbury Clinic, thanked Captain Lawson for a job well done. He also inquired why there is a rotation policy for the captain. He also asked that residents from the Western Addition of the Park District be ask to attend the District Meeting.

George Zabal thanked Captain Lawson and the officers of Park Station for a job well done.

Thereafter, the meeting was adjourned at 7:10 p.m.

Lt. Edward Geeter, #1273

_____

Lieutenant Edward Geeter
Secretary
THE POLICE COMMISSION

1273/rct

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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JUNE 4, 2003
Closed Session 5:00 p.m.
Open Session 5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

1. Roll Call

2. Public Comments on all matters pertaining to the Closed Session

3. Vote on whether to hold Closed Session to confer with legal counsel. (San Francisco Administrative Code Section 67.10(d)) (ACTION ITEM)

4. Closed Session held pursuant to Government Code 54956.9 and San Francisco Administrative Code Section 67.10(d)

   CONFERENCE WITH LEGAL COUNSEL - Existing Litigation

   a. Mesha Irizarry, et al v. City and County of San Francisco, et al., USDC No. C02-0534 SBA (ACTION ITEM)

5. Reconvene in open session; Pledge of Allegiance

6. Discussion and vote to elect whether to disclose any or all discussion held in closed session (San Francisco Administrative Code Section 67.12(a). (ACTION ITEM)

7. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)

8. Chief's Announcements and Review of Recent Department Events (DISCUSSION ONLY)

9. Discussion and possible action in connection with the investigation by the Office of Citizen Complaints ("OCC") into the Police Department's response to the November 20, 2002 Union Street incident, to direct the Chief of Police, acting through Acting Assistant Chief Heather Fong, to prepare, for Commission review, a ranked list of recommended and willing individuals or entities with the requisite skills and experience to assist the Chief of Police, in lieu of the Department's Management Control Division, in the event that the OCC sustains any of the citizen allegations in this matter, by reviewing the OCC report and making a recommendation to the Chief regarding discipline. (ACTION ITEM)

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JUNE 4, 2003
Closed Session 5:00 p.m.
Open Session 5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

10. OCC Director's Report re: Staffing and Budget and Summary of Recent Events (DISCUSSION ONLY)

11. Discussion of: 1) report by the Office of Citizen Complaints ("OCC") on cases pending at the OCC for over ten months; and 2) OCC's list of sustained cases pending adjudication. (DISCUSSION ONLY)

12. Public Comments
(Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

13. Hearing on Disciplinary Charges filed against Officer Roy Michael Ramos, Bayview (File No. C02-273 JWA) (ACTION ITEM)

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*There will be Public Comments on any item before or during discussion of each item.

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SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

Communication accessibility services; including sign language Interpreters or computer aided real time captioning will be made available upon advance request. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406(tty), at least 72 hours prior to a proceeding. Late requests will be honored if possible.

A **sound enhancement system** will be available on request at the proceeding.

Meeting agendas and other print materials will be made available in **alternate formats** (computer disk, cassette tape, large print or Braille) upon advance request at least 72 hours at least 72 hours prior to a proceeding. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406 (tty). Late requests will be honored if possible.

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The proceeding will be held at the Hall of Justice, 850 Bryant Street, 5th floor Police Commission Hearing Room. The closest accessible BART station is 5th and Mission Streets. Accessible MUNI lines serving this location are 42 and 9X San Bruno Express.

For information about MUNI service call 923 6142

Accessible parking is available in front of the Hall of Justice, 850 Bryant Street.

Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

JUNE 4, 2003 **CLOSED SESSION**

The Police Commission of the City and County of San Francisco met in their chambers, Room 505-2, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:05 p.m., in Closed Session.

PRESENT: Commissioners Perry, Chan, Quaranta
ABSENT: Commissioner Makras, Friday

CONFERENCE WITH LEGAL COUNSEL - Existing Litigation

a. Mesha Irizarry, et al. v. City and County of San Francisco, et al., USDC No. C02-0534 SBA

RESOLUTION NO. 37-03

MESHA IRIZARRY, et. al v. CITY AND COUNTY OF SAN FRANCISCO, et. al.

RESOLVED, that the recommendation of the City Attorney for settlement of the litigation of "Mesha irizarry, et al. V. City and County of San Francisco, et. al.," in USDC No. C02-0534 SBA, be, and the same is hereby approved.

Date of Incident: June 13, 2001

AYES: Commissioners Perry, Chan, Friday, Quaranta
ABSENT: Commissioner Makras

RECONVENE TO OPEN SESSION; Pledge of Allegiance

DISCUSSION AND VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(a)

Commissioner Chan made a motion not to discuss or disclose the action taken in Closed Session. The motion was second by Commissioner Friday. Approve 4-0.

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

None

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Acting Chief Fagan reported that the Department continues to meet with the OcC to work out any problems dealing with disciplinary issues. He also stated that he will not be able to attend the next meeting, June 11th.

DISCUSSION AND POSSIBLE ACTION IN CONNECTION WITH THE INVESTIGATION BY THE OFFICE OF CITIZEN COMPLAINTS ("OCC") INTO THE POLICE DEPARTMENT'S RESPONSE TO THE NOVEMBER 20, 2002 UNION STREET INCIDENT, TO DIRECT THE CHIEF OF POLICE, ACTING THROUGH ACTING ASSISTANT CHIEF HEATHER FONG, TO PREPARE, FOR COMMISSION REVIEW, A RANKED LIST OF RECOMMENDED AND WILLING INDIVIDUALS OR ENTITIES WITH THE REQUISITE SKILLS AND EXPERIENCE TO ASSIST THE CHIEF OF POLICE, IN LIEU OF THE DEPARTMENT'S MANAGEMENT CONTROL DIVISION, IN THE

EVENT THAT THE OCC SUSTAINS ANY OF THE CITIZEN ALLEGATIONS IN THIS MATTER, BY REVIEWING THE OCC REPORT AND MAKING A RECOMMENDATION TO THE CHIEF REGARDING DISCIPLINE

Acting Assistant Chief Fong reported on the issue of an independent investigator to look into the Police Department's response to the November 20, 2002 Union Street incident.

RESOLUTION NO. 39-03

DISCUSSION AND POSSIBLE ACTION IN CONNECTION WITH THE INVESTIGATION BY THE OFFICE OF CITIZEN COMPLAINTS ("OCC") INTO THE POLICE DEPARTMENT'S RESPONSE TO THE NOVEMBER 20, 2002 UNION STREET INCIDENT, TO DIRECT THE CHIEF OF POLICE, ACTING THROUGH ACTING ASSISTANT CHIEF HEATHER FONG, TO PREPARE, FOR COMMISSION REVIEW, A RANKED LIST OF RECOMMENDED AND WILLING INDIVIDUALS OR ENTITIES WITH THE REQUISITE SKILLS AND EXPERIENCE TO ASSIST THE CHIEF OF POLICE, IN LIEU OF THE DEPARTMENT'S MANAGEMENT CONTROL DIVISION, IN THE EVENT THAT THE OCC SUSTAINS ANY OF THE CITIZEN ALLEGATIONS IN THIS MATTER, BY REVIEWING THE OCC REPORT AND MAKING A RECOMMENDATION TO THE CHIEF REGARDING DISCIPLINE

WHEREAS, Acting Assistant Chief Heather Fong reported on the issue of an independent investigation to look into the Police Department's response to the November 20, 2002 Union Street incident; and

WHEREAS, the Department have received inquiries from thirty (30) individuals or entities who have expressed an interest in conducting the requested independent investigation; and

WHEREAS, there are three (3) methods by which this individual or entity may be chosen:

1. Sole Source (No Bidding)
   - Must be under $10,000 and meet criteria (e.g. only one person or entity can do the work)
   - Must have Human Rights Commission's (HRC) approval

2. Informal
   - Contract must be under $25,000
   - Can solicit by phone (suggest at least three (3) potential contractors)
   - Must comply with HRC and Office of Contract Administration (OCA) regulations
   - Must conduct internal scoring

3. RFP - "Request For Proposal"
   - More formal process
   - Advertise, set specific criteria, formal scoring
   - Comply with all City contract regulations
   - Panel would evaluate and rate proposals
   - List submitted to the Commission

WHEREAS, Commissioner Sidney Chan made a motion to approve Proposal No. 3, Request For Proposal. The motion was second by Commissioner Quaranta; and

WHEREAS, Commissioner Sidney Chan made another motion to have the Police Department compile a list of possible investigators for the

Commission's review. The motion was second by Commissioner Friday; therefore be it

RESOLVED, that the Commission hereby approves Proposal No. 3, Request For Proposal, and asks the Police Department to compile a list of possible investigators for the Commission's review.

AYES: Commissioners Perry, Chan, Friday, Quaranta
ABSENT: Commissioner Makras

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Director Kevin Allen informed the Commission that the OCC and the Chief continue to meet to discuss problems. He also stated that his office have received the requisition to hire another attorney to replace Attorney Lie who has accepted another position.

DISCUSSION OF: 1) REPORT BY THE OFFICE OF CITIZEN COMPLAINTS ("OCC") ON CASES PENDING AT THE OCC FOR OVER TEN MONTHS; AND 2) OCC'S LIST OF SUSTAINED CASES PENDING ADJUDICATION

Director Allen reported on cases that are within two to three months of the one year time limit given for investigation.

Commissioner Perry asked the Department and the OCC for a report on how they plan to deal with the issue of Government Code 3304. Director Allen stated that the OCC and the Department will meet and confer on the issue.

Commissioner Perry asked the Chief and the OCC to report to the Commission at least every 60 days on the status of cases approaching the one year time limit.

Chief Fagan stated that in order to plan in advance, he recommends that the first meeting of each month be scheduled for the requested reports, starting the first meeting in July.

PUBLIC COMMENTS

Mark Schlosberg, ACLU, stated that he was please with the meetings the Department have had with the ACLU and the OCC, but, stated that the OCC needs more authority so that they do not have to report to the Police Department before it can file charges against the police for sustained complaints.

HEARING ON DISCIPLINARY CHARGES FILED AGAINST OFFICER ROY MICHAEL RAMOS, BAYVIEW (FILE NO. C02-273 JWA)

Attorney Jerry Akins, MCD, advised the Commission that Officer Roy Michael Ramos retired from the Police Department effective May 15, 2003 and asked that Officer Ramos be removed from the calendar.

Commissioner Quaranta made a motion to remove Officer Ramos from the calendar. Second by Commission Chan. Approved 4-0.

RESOLUTION NO. 38-03

HEARING OF OFFICER ROY MICHAEL RAMOS, BAYVIEW (FILE NO. C02-273 JWA)

WHEREAS, on October 29, 2002, Prentice E. Sanders, Chief of Police, made and served charges against Officer Roy Michael Ramos, Bayview, as follows:

SPECIFICATION NO. 1

Conduct which undermines the good order, efficiency, and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General order 2.01 of the San Francisco Police Department).

WHEREAS, the Police Commission set Wednesday, June 4, 2003, as the date for the hearing on charges filed against Officer Roy Michael Ramos; and

WHEREAS, Attorney Jerry W. Akins, Management Control Division, announced that Officer Roy Michael Ramos has retired from the San Francisco Police Department, said retirement effective close of business May 15, 2003; therefore be it

RESOLVED, that the charges of violating the Rules and Procedures of the San Francisco Police Department filed against Officer Roy Michael Ramos, Bayview, be, and the same are hereby continued off calendar.

AYES: Commissioners Perry, Chan, Friday, Quaranta
ABSENT: Commissioner Makras

Thereafter, the meeting was adjourned at 6:05 p.m.

Lt. Edward Geeter, #1273

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Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JUNE 11, 2003
5:30 p.m.

DOCUMENTS DEPT.

JUN 12 2003

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Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

1. Pledge of Allegiance

2. Roll Call

3. Approval of Minutes for the Police Commission Meetings of May 21st and May 28, 2003

4. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)

5. Chief's Announcements and Review of Recent Department Events (DISCUSSION ONLY)

6. OCC Director's Report re: Staffing and Budget and Summary of Recent Events (DISCUSSION ONLY)

7. Discussion and Action: Regarding the Use of the A.S.P. Expandable Baton to be used by the Tactical and Dog units (ACTION ITEM)

8. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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SAN FRANCISCO POLICE COMMISSION
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For information about MUNI service call 923 6142

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For information about the meeting call 553 1667(v) or 553 9194 (tty)

JUNE 11, 2003 **REGULAR MEETING**

The Police Commission met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Friday, Quaranta
ABSENT: Commissioner Chan

APPROVAL OF MINUTES FOR THE POLICE COMMISSION MEETINGS OF MAY 21ST AND MAY 28, 2003

Commissioner Makras made a motion for approval of the Commission minutes for the meetings of May 21st and May 28, 2003. The motion was second by Commissioner Quaranta. Approve 4-0.

AYES: Commissioners Perry, Makras, Friday, Quaranta
ABSENT: Commissioner Chan

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New items

The Commission voted not to meet on Wednesday, June 18, 2003. Lieutenant Geeter informed the Commission that the next district meeting is scheduled for July 30, 2003 in the Tenderloin District.

DISCUSSION AND ACTION: REGARDING THE USE OF THE A.S.P. EXPANDABLE BATON TO BE USED BY THE TACTICAL AND DOG UNITS

Taken out of order.

Sergeant Frank Lee, Tactical Unit, addressed the Commission on the use of the A.S.P. expandable baton and who are permitted to carry them.

Commissioner Friday made a motion to approve the use of the A.S.P. Expandable Baton. The motion was second by Commissioner Quaranta. Approved 4-0.

RESOLUTION NO. 40-03

APPROVAL OF THE USE OF THE A.S.P. EXPANDABLE BATON BY THE TACTICAL AND DOG UNITS OF THE SAN FRANCISCO POLICE DEPARTMENT

RESOLVED, that the Police Commission hereby approves the use of the A.S.P. ("Armament Systems and Procedures") Expandable Baton by the Tactical and Dog Units of the San Francisco Police Department.

AYES: Commissioners Perry, Makras, Friday, Quaranta
ABSENT: Commissioner Chan

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Acting Assistant Chief Fong addressed the Commission and stated that Chief Fagan will return to the Department tomorrow from a Chiefs Convention. Chief Fong stated that she would be attending a meeting at the Board of Supervisors tomorrow regarding the budget. She will meeting again with the POA to discuss the new contract tomorrow.

Chief Fong introduced Lt. Al Casciato of the Traffic Division who discussed four serious accidents, three of which were fatal, within the past weeks. Lt. Casciato reported on the investigations and what the department is doing to address the problem, particularly on the 19th Avenue corridor.

Commissioner Quaranta excused himself at 5:55 p.m.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Ms. Jean Field, Acting Director, advised the Commission that the Human Rights Commission conducted a training seminar at the OCC on transgender issues.

PUBLIC COMMENTS

Martha Bridegam, Homeless Coalition, wanted to make a complaint against an officer from the Bayview District for citing a homeless woman at 6:00 a.m. for sleeping in her vehicle.

Thereafter, the meeting was adjourned at 6:05 p.m.

Lt. Edward Geeter, #1273

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Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

VICTOR MALOTAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT EDWARD OBERTER
Secretary

= Agenda

CALENDAR OF PROCEEDINGS
POLICE COMMISSION MEETING

There will be no Police Commission meeting on Wednesday, June 18, 2003. The next Police Commission Regular Meeting will be on ***Wednesday, June 25, 2003***, at 5:30 p.m., in Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco

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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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CONNIE PERRY
PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JUNE 25, 2003
5:30 p.m.

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Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

1. Pledge of Allegiance
2. Roll Call
3. Approval of Minutes for the Police Commission Meetings of June 4th and 11, 2003 (ACTION ITEM)
4. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)
5. Chief's Announcements and Review of Recent Department Events
6. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
7. Approval of the Awards Committee Recommendations (ACTION ITEM)
8. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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SAN FRANCISCO POLICE COMMISSION
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JUNE 25, 2003 **REGULAR MEETING**

The Police Commission of the city and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Makras, Chan, Friday
ABSENT: Commissioners Perry, Quaranta

APPROVAL OF MINUTES FOR THE POLICE COMMISSION MEETINGS OF JUNE 4th AND 11, 2003

Commissioner Chan made a motion to approve the minutes for the Commission meetings of June 4th and 11, 2003. Second by Commissioner Friday. Approved 3-0.

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

None

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Fagan, Acting Chief of Police, reported on several issues:

Friday, June 20th, the Department began training classes on Transgender Person(s) issue. The training began with the command staff and the captains.

Tuesday, June 24th, the Chief returned from a Chiefs Conference. The main issue discussed was homeland security and budget issues.

Chief Fagan also stated that he has and will be meeting with the Board of Supervisors to discuss the budget and the possible charter amendment regarding police and sheriffs.

Commissioner Chan asked if the Commission would get to review the budget that is being revised. Chief Fagan stated that no, the Commission do not review the revised budget prior to being voted on by the full Board of Supervisors.

Deputy Chief Bruce reported on the Civil Grand Jury's report regarding the readiness of the city during a city-wide emergency. Chief Bruce stated that he disagrees with the report and stated that he believes the city, particularly the police department, is prepared to handle any emergency.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, reported that the OCC are interviewing attorneys to fill the vacant position. OCC received 15 applications, interviewed eight, and they are considering three possible candidates. Also, that the OCC are down to three candidates for the senior investigator position.

Director Allen thanked Captain O'Leary, who responded to the OCC office, worked with Staff Attorney Jean Field, and helped in closing outstanding cases.

APPROVAL OF THE AWARDS COMMITTEE RECOMMENDATIONS

Commissioner Chan made a motion to approve the list of officers who were awarded Medals of Valor by the Awards Screening Committee, **with the removal of the cash reward to the Purple Heart recipients**. The motion was second by Commissioner Friday. Approved 3-0.

RESOLUTION NO. 41-03

AWARDS GRANTED TO MEMBERS OF THE POLICE DEPARTMENT

WHEREAS, the following named members of the Police Department have been commended for courageous service under the provisions of General Order 3.09, Section I.A.1 of the San Francisco Police Department, as approved by the Awards Committee on Friday, May 30, 2003; and

WHEREAS, Acting Chief of Police Alex Fagan has recommended to the Police Commission that the said members be rewarded under the provisions of Section 8.405(a)(4) of the Charter of the City and County of San Francisco; therefore be it

RESOLVED, that Officers Michael Celis, Joelle Felix, Shaughn Ryan, and Derrick Jackson are hereby awarded Silver Medals of Valor and granted rewards of $1000.00 each, as provided for under said section of the Charter; and be it further

RESOLVED, that Sergeants Mario Delgadillo and Louis Espinda, Officers Stan Williams and Calvin Lew are hereby awarded Bronze Medals of Valor and granted rewards of $500.00 each, as provided for under said section of the Charter; and be it further

RESOLVED, that Sergeant Michael Evanson, Inspectors *Robert McMillan**, *Michael Philpott*, Matthew Hauley**, David Martinovich, Robert Barnes, James Lew, William Scott, Martin Halloran, Don O'Connor, Officers *Francis Hagan*, Joseph Marte**, David Brandt, Matthew Mason, Darren Nocetti *Kenneth Koenig*, Robert Byrne*, David Nastari**, Ricardo Valdez, William Braconi, Britt Elmore, Vince Etcheber, Ken Macdonald, Ryan Seto, Hugh Hall, and Steve Benzinger, are hereby awards Meritorious Conduct Awards and granted rewards of $200.00 each, as provided for under said section of the Charter.

*(*Recipient of Two (2) Meritorious Conduct Awards)*

AYES: Commissioners Makras, Chan, Friday
ABSENT: Commissioners Perry, Quaranta

The following members were awarded the Police Commission Commendation:

Sergeants Kyle Ching, Charles Limbert, Nicholas Rubino, James Miller #875, Greogry Mar, Maryanne Lowman, David Kamita, Inspectors Mark Sullivan, Susan Bachman, Larry Camilleri, Officers Steven Keith, Wesley Villaruel, Elmer Najarro, Timothy Fowlie, Luis De Jesus, Ignacio Martinez, Edward Hunt, Michael Wolf, Matthew Tonsing, *Mario Molina**, Joseph Salazar, Edwin Gaffud, Paul Lawrence, Kenneth Bates, Lisa Frazer, Deborah Erdy, Teresa Ewins, Jennifer Duvally, Peter Richardson, Susan Nangle, Leonard Cueba, Jon Cook, Michael Celis, David Lee, Nicholas Ferrando, Martha Juarez, Jennifer Jackson, Stephen Bucy, and *Patrol Special Officer Jane Warner**.

(Recipient of Two (2) Police Commission Commendations)

The following members were awarded the Life Saving Award: Sergeant Anthony Manfreda, Officers Eric Mahoney, and Jeff Aloise.

The following members were awarded the Purple Heart Award: Officers Jon Cook, Michael Celis, Nicholas J. Ferrando, David Lee, John VanKoll, and Sergeant Gregory Lynch.

PUBLIC COMMENTS

Mr. Kelly Keith, Citizens of the Potrero Hill, stated that they have stared a neighborhood watch group and that the area has been hit many times with auto burglaries. He also stated that the citizens are not pleased with the teleserve report system.

Mr. Greg Stauren, Potrero Hill resident, also complained about the crime in the area and the uselessness of the teleserve report system.

Mr. B.J. Handley, Potrero Hill resident, complained about the lack of service surrounding the teleserve report system. The community has stared a website to report all criminal incidents. The site is SFGOAT.com.

Chief Fagan stated that the Department is aware of the problem and that, this day, he advised Deputy Chief Greg Suhr to meet with district captains to address the problems noted by the three speakers.

Thereafter, the meeting was adjourned at 6:26 p.m.

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

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cancelled

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT. EDWARD GEETER
Secretary

= Agenda

CALENDAR OF PROCEEDINGS
POLICE COMMISSION MEETING

There will be no Police Commission meeting on Wednesday, July 2, 2003. The next Police Commission Regular Meeting will be on ***Wednesday, July 9, 2003***, at 5:30 p.m., Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco.

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LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JULY 9, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

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1. Pledge of Allegiance
2. Roll Call
3. Approval of Minutes for the Meeting of June 25, 2003 (ACTION ITEM)
4. Approval of the Consent Calendar (ACTION ITEM)
5. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)
6. Chief's Announcements and Review of Recent Department Events
7. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
8. Discussion and Action re: OCC's 3rd and 4th Quarter 2002 Early Warning System Reports (ACTION ITEM)
9. Discussion and Possible Action to Adopt Protocol for SFPD Response to OCC Requests for Documents
10. Public Comments
    (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

CONSENT CALENDAR

1. Request of Officer Edith L. Lewis for approval to accept a gift of a Swiss Army Watch, valued at approximately $150.00 (ACTION ITEM)

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PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

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JULY 9, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Friday
ABSENT: Commissioner Quaranta

Commissioner Perry sent her best regards to Commissioner Quaranta who was ill.

APPROVAL OF MINUTES FOR THE MEETING OF JUNE 25, 2003

Commissioner Chan made a motion for approval of the minutes of the Commission meeting of June 25, 2003. Second by Commissioner Friday. Minutes approved 4-0.

APPROVAL OF THE CONSENT CALENDAR

Commissioner Friday made a motion for approval of the Consent Calendar. Second by Commissioner Chan. Approved 4-0.

RESOLUTION NO. 42-03

APPROVAL OF THE REQUEST OF OFFICER EDITH L. LEWIS TO ACCEPT A GIFT OF A SWISS ARMY WATCH, VALUED AT APPROXIMATELY $150.00

RESOLVED, that the Police Commission hereby approves the request of Officer Edith L. Lewis to accept a gift of a Swiss Army watch, valued at approximately $150.00.

AYES: Commissioners Perry, Makras, Chan, Friday
ABSENT: Commissioner Quaranta

POLICE COMMISSION ANNOUNCEMENTS

a. **Motion of Calendaring of New Items**

Commissioner Perry asked when is the next District Meeting. Lieutenant Geeter, Police Commission Secretary, informed the Commission that the next district meeting is scheduled for July 30th at the Tenderloin Police Station, 301 Eddy.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Acting Chief Fagan reported on three issues. Most of the Command Staff met today and debriefed on two exercises in weapons of mass destruction put on by Seattle and Chicago Police & Fire. Chief Fagan stated that it was a very good class and he hopes San Francisco would put on a similar exercise in two years.

Chief Fagan also stated that the Department met with the public advocates and Captain O'Leary to discuss EEO issues. The Department also met with Supervisor Gonzalez regarding the proposed City Ballot issues.

In response to a question by Commissioner Perry regarding the budget, Chief Fagan reported that at the Budget Committee meeting with the Board of Supervisors, the Department's budget was cut another $3.5 million and that he hopes to recover some of the funds through the Homeland Security funds of the

Federal Government.

Chief Fagan also reported that an academy class of 46 started June 30th and expects to graduate in January 2004.

Acting Assistant Chief Fong reported on her investigation of a possible violation of General Order 8.10. She stated that there were possible violations and that she has submitted the report to Chief Fagan for review. Chief Fagan asked the Commission if he could have 14 days to review the investigative report before reporting to the Commission. The Commission granted the requested 14 days.

Deputy Chief Suhr spoke on the policing of events during the July 4th holiday celebration.

Captain O'Leary, Risk Management, reported to the Commission on Government Code 3304 issues. He stated that the Department and the OCC are working on identifying procedures to alert the MCD and the OCC at intervals of 9 months, 3 months, and 60-day limit. Captain O'Leary stated that he will be reporting to the Commission on a regular basis.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, apologized to the Commission for not releasing the Protocol Procedures documents sooner. He also stated that he has hired an attorney to replace Attorney Cynthia Lie.

DISCUSSION AND ACTION RE: OCC'S 3RD AND 4TH QUARTER 2002 EARLY WARNING SYSTEM REPORTS

Director Kevin Allen reported on year 2002 3rd and 4th Quarters Early Warning System Report.

Director Allen asked the Commission that the names of officers with Proper Conduct complaints be taken off the Early Warning System Report. He stated that all of the complaints will be listed on the Morning Report and the officers will be notified at the end of the process that proper conduct is found. The Chief is still notified. So the complaint is not removed from existence. It would only be removed from the Early Warning System Report.

Commissioner Perry asked if this is part of a general order and Director Allen stated that the general order has to be changed. Commissioner Perry stated that the Commission cannot vote on the item today.

Deputy Chief Suhr, FOB, explained that the officers are notified by the sergeants of the number of complaints that he/she has received and if there are similarities in the incidents, the recommendation goes through the chain of command to the Deputy Chief.

Commissioner Perry asked if everything was found proper conduct, could the officer's behavior that's causing the complaint, even though it's proper conduct, should the officer be counseled about that behavior even if the conduct is proper? Deputy Chief Suhr stated that if it's a matter of discourtesy or if the Early Warning System has tipped the department that there is a problem, then there will be a performance improvement plan designed to benefit the officer and modify the behavior prior to it getting to the officer engaging in misconduct.

DISCUSSION AND POSSIBLE ACTION TO ADOPT PROTOCOL FOR SFPD RESPONSE TO OCC REQUESTS FOR DOCUMENTS

Commissioner Perry asked that the protocol report be rescheduled for the Commission meeting of July 16, 2003.

PUBLIC COMMENTS

Mark Schlosberg, ACLU, spoke regarding Chief Fong's report on the General Order 8.10 investigation. He stated that the investigation should be made public and that he will wait for a copy of the investigation.

Thereafter, the meeting was adjourned at 6:50 p.m.

Lt. Edward Geeter, #1273

_____

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JULY 16, 2003
Closed Session 5:00 p.m.
Open Session 5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

DOCUMENTS DEPT.

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1. Roll Call

2. Public Comments on all matters pertaining to the Closed Session

3. Vote on whether to hold Closed Session to confer with legal counsel. (San Francisco Administrative Code Section 67.10(d)) (ACTION ITEM)

4. Closed Session held pursuant to Government Code 54956.9 and San Francisco Administrative Code Section 67.10(d)

   CONFERENCE WITH LEGAL COUNSEL - Existing Litigation

   a. Evelyn Mata v. City and County of San Francisco, et. al., Superior Court No. 411-318 (ACTION ITEM)

   b. San Francisco Police Officers Association v. City and County of San Francisco, Superior Court Case No. 324635 (DISCUSSION ONLY)

5. Reconvene in open session; Pledge of Allegiance

6. Discussion and vote to elect whether to disclose any or all discussion held in closed session (San Francisco Administrative Code Section 67.12(a). (ACTION ITEM)

7. Approval of Consent Calendar (ACTION ITEM)

8. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)

9. Chief's Announcements and Review of Recent Department Events (DISCUSSION ONLY)

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JULY 16, 2003
Closed Session 5:15 p.m.
Open Session 5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

10. OCC Director's Report re: Staffing and Budget and Summary of Recent Events (DISCUSSION ONLY)

11. Discussion and Possible Action to Adopt Protocol for SFPD Response to OCC Requests for Documents (ACTION ITEM)

12. Public Comments
(Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

CONSENT CALENDAR

1. Recommendation of the City Attorney for Settlement of the following claim:

   a. Evelyn Mata v. City and County of San Francisco, et. al., Superior Court No. 411-318 (ACTION ITEM)

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(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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JULY 16, 2003 **CLOSED SESSION**

The Police Commission of the City and County of San Francisco met in their chambers, Room 505-2, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:20 p.m., in Closed Session.

PRESENT: Commissioners Perry, Makras, Chan
ABSENT: Commissioner Friday, Quaranta

PUBLIC COMMENTS ON ALL MATTERS PERTAINING TO THE CLOSED SESSION

None

CLOSED SESSION HELD PURSUANT TO GOVERNMENT CODE 54956.9 AND SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.10(d)

Commissioner Makras made a motion to hold a Closed Session to confer with the City Attorney. The motion was second by Commission Chan. Approved 3-0.

CONFERENCE WITH LEGAL COUNSEL - Existing Litigation

a. Evelyn Mata v. City and County of San Francisco, et. al., Superior Court No. 411-318

b. San Francisco Police Officers Association v. City and County of San Francisco, Superior Court No. 324635

JULY 16, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 6:10 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

DISCUSSION AND VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(a)

Commissioner Chan made a motion not to disclose action or discussion held in Closed Session. The motion was second by Commission Makras. Approved 5-0.

APPROVAL OF CONSENT CALENDAR

Commissioner Chan made a motion to approve the Consent Calendar. Second by Commissioner Makras. Approved 5-0.

RESOLUTION NO. 43-03

EVELYN MATA v. CITY AND COUNTY OF SAN FRANCISCO, et. al.

RESOLVED, that the recommendation of the City Attorney for settlement of the litigation of "Evelyn Mata v. City and County of San Francisco, et. al.," in Superior Court No. 411-318, be, and the same is hereby approved.

Date of Incident: March 2001 and continuing

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

POLICE COMMISSION ANNOUNCEMENTS
a. Motion of Calendaring of New Items

Commissioner Perry announced that the next District Commission meeting is scheduled for July 30th at the Tenderloin Police Station.

Commissioner Quaranta thanked those who either visited, called, or was concerned when he was ill and in the hospital.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Fagan informed the Commission that, with the budgets cuts the Department was forced to make, it will be a very difficult year. However, he knows the Department will fulfill its commitments.

Commander Hom, FOB, updated the Commission on the fatal accident that occurred on I-280 where four citizens lost their lives.

Deputy Chief Suhr, FOB, in response to a question by Commissioner Perry, updated the Commission on the shooting incident that occurred in a City College parking lot where one of the victims was the son of a San Francisco Police Officer. Chief Suhr stated that it is possible that the son could lose a leg.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, introduced Attorney Erica Franklin, who was just hired by the OCC.

Director Allen reported on the number of cases the OCC has that are over 10 months old and the status of those cases.

DISCUSSION AND POSSIBLE ACTION TO ADOPT PROTOCOL FOR SFPD RESPONSE TO OCC REQUESTS FOR DOCUMENTS

Mr. Richard Strickman asked the Commission not to allow the Department to stall misconduct investigations by not giving information to the OCC.

Mr. Mark Schlosberg, ACLU, stated that having such a protocol is a step in the right direction. But, the protocol does not prevent stalling. However, what can prevent stalling is a charter amendment.

Commissioner Makras asked both Chief Fagan and Director Allen if it was true that if the Department and the OCC have not reached an agreement within 10 days that either party could bring the matter to the Commission at the next Commission meeting? Both Chief Fagan and Director Allen stated yes.

Commissioner Makras stated that the public should be very please with this procedure.

Commissioner Makras made a motion to adopt the protocol for SFPD Response to OCC Requests for Documents. The motion was second by Commissioner Chan. Approved 5-0.

The Protocol was signed by OCC Director Kevin Allen, Chief Alex Fagan and Commission Secretary Lieutenant Edward Geeter.

RESOLUTION NO. 44-03

ADOPTION OF THE PROTOCOL BETWEEN THE OFFICE OF CITIZEN COMPLAINTS AND THE SAN FRANCISCO POLICE DEPARTMENT RE: RESPONDING TO REQUESTS FOR DOCUMENTS FOR OCC INVESTIGATIONS

RESOLVED, that the Police Commission hereby adopts the protocol between the Office of Citizen Complaints and the San Francisco Police Department regarding responding to requests for documents for OCC investigations.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

The Protocol states as follows:

PROTOCOL BETWEEN THE OFFICE OF CITIZEN COMPLAINTS AND THE SAN FRANCISCO POLICE DEPARTMENT RE: RESPONDING TO REQUESTS FOR DOCUMENTS FOR OCC INVESTIGATIONS

I. PURPOSE

This protocol between the Office of Citizen Complaints (OCC) and the San Francisco Police Department (SFPD) is adopted in order to ensure the timely response to OCC requests to the SFPD for documents and other materials necessary for the thorough investigation of complaints of officer misconduct pursuant to San Francisco Charter Section 4.127. This protocol is also intended to assist the SFPD in documenting each request from the OCC for documents and materials and ensuring that the requests are processed in a manner that will provide the most efficient and effective use of SFPD staff and resources.

II. ROUTINE REQUESTS

Routine requests shall be made to the appropriate division, station or unit of the SFPD. Documents and materials deemed to be "routine" are delineated in Appendix "A" attached to this protocol and incorporated by reference herein. Requests shall be made by telephone or in writing, hand-delivered or sent by e-mail, fax or U.S. mail, and shall contain an OCC case number. A copy of all written requests shall be provided to the SFPD Legal Division. Upon receipt of a written request, the SFPD Legal Division shall enter the date, time and nature of the request in a log specifically kept for tracking of OCC requests. The OCC may review the log kept in the SFPD Police Legal office during normal business hours and obtain photocopies of the log.

Subject to Part VI of this protocol, the SFPD shall provide documents or materials deemed to be "routine" under this protocol within three (3) business days from the date of receipt of the request. If the SFPD cannot produce the "routine" documents or materials within three (3) business days of receipt of a written request therefor, it shall notify the OCC and Chief of Police, with a copy to the Police Commission, pursuant to the procedures outlined in Section V below.

III. SPECIFIED REQUESTS FOR JUVENILE RECORDS

Request specified in Appendix "B" for records involving juveniles shall be in writing, hand-delivered or sent by fax or U.S. mail to the SFPD Legal Division, and shall contain an OCC case number and a copy of the consent of the minor or his or her parent or guardian for the OCC to inspect the minor's

juvenile court file. Upon receipt of the request, the SFPD Legal Division shall enter the date, time and nature of the request in a log specifically kept for tracking of OCC requests. The OCC may review the log kept in the SFPD Police Legal office during normal business hours and obtain photocopies of the log.

Subject to Part VI of this protocol, requests specified in Appendix "B," attached to this protocol and incorporated by reference herein, should be processed and the documents or materials produced within three (3) business days from the date of receipt of the request. If the SFPD cannot produce the documents or materials within three (3) business days, it shall notify the OCC and the Chief of Police, with a copy to the Police Commission, pursuant to the procedures outlined in Section V below.

IV. NON-ROUTINE REQUESTS

All other documents and materials not delineated in Appendix "A" or Appendix "B" shall be deemed non-routine requests. Non-routine requests for documents or materials necessary for an OCC investigation shall be in writing, hand-delivered or sent by e-mail, fax or U.S. mail, to the SFPD Legal Division. Upon receipt of the request, the SFPD Legal Division shall enter the date, time and nature of the request in a log specifically kept for tracking of OCC requests.

The OCC may review the log kept in the SFPD Police Legal office during normal business hours and obtain photocopies of the log.

Subject to Part VI of this protocol, requests deemed to be "non-routine" under this protocol should be processed and the documents or materials produced as quickly as possible, but in no event later than fifteen (15) business days following receipt of the request. If the SFPD cannot produce the documents or materials within fifteen (15) business days, it shall notify the OCC and the Chief of Police, with a copy to the Police Commission, pursuant to the procedures outlined in Section V below.

V. LATE PRODUCTION

If the SFPD determines that the production of the documents or materials will take longer than the time lines set forth above, the SFPD Legal Division will notify the OCC and the Police Commission in writing of the delay, the factual basis for the delay, and the estimated time for production. In the case of routine requests specified in Appendix "A" and requests for juvenile records specified in Appendix "B," SFPD shall notify the OCC and the Police Commission of any late production no later than three (3) business days following receipt of a written request. In the case of non-routine requests, the SFPD Legal Division shall notify the OCC and the Chief of Police, with a copy to the Police Commission, of any late production no later than fifteen (15) business days following receipt of the request.

If the OCC does not receive requested documents or materials within the time lines set forth above, the OCC may make a written inquiry to the commanding officer of the SFPD Legal Division and the Chief of Police requesting the materials and documents. If the Chief does not respond to the inquiry within five (5) business days by providing the requested materials and documents or a justification for the delay, then the OCC shall refer the issue to the Police Commission for resolution.

VI. DENIAL OF DISCLOSURE

If the Chief of Police determines that there is a legal basis to deny disclosure of the requested materials or documents to the OCC, the Chief will

inform the OCC and the Police Commission in writing within the time lines for disclosure set forth above or earlier if possible. The written denial shall set forth the specific legal and factual basis for the denial of each requested item. If the OCC disagrees with the justification for the denial it shall inform the Chief of Police in writing, with a copy to the Police Commission. If the matter cannot be resolved between the parties they shall refer the issue to the Police Commission for resolution.

VII. REPORTING TO POLICE COMMISSION

The Chief of Police shall provide quarterly written reports to the Police Commission regarding SFPD responses to OCC requests for documents under this protocol. For the quarterly period covered by the report, the report shall set forth: (I) the number of OCC written requests for documents within each document category (routine, juvenile and non-routine), (ii) the number of requests within each category for which there was timely production, (iii) the number of requests within each category for which there was timely notification of an extension of time for production, (iv) the number of requests within each category for which there was untimely notification of an extension of time for production or late production, (v) the number of requests within each category for which there was a denial or partial denial of disclosure, and the legal and factual basis therefor, (vi) the status of any non-routine requests that remain pending at the close of the reporting period or for which there is a dispute between the SFPD and the OCC, and (vii) recommendations, if any, for improvements to this protocol and the procedures used to ensure timely responses by the SFPD to OCC requests for documents and other materials, and for the efficient and effective use of SFPD staff and resources in responding thereto.

At least ten (10) days before the Police Commission meeting at which the Chief of Police or his or her designee will present the report, the OCC Director and the Chief of Police, or their designees, shall meet and confer to reconcile any discrepancies in the statistical information to be presented to the Police Commission, to discuss the recommendations, if any, to be presented to the Police Commission, and to address any other matters contained in the report.

APPENDIX "A"

1. Incident reports (including all supplemental reports)
2. Traffic Collision Reports (CHP555, 555-03 & 556)
3. Mug shots (criminal history information tracking number to be redacted)
4. Daily Arrest logs (SFPD Form 307)
5. Use of force logs (SFPD Form 128)
6. Certificate of Release (SFPD Form 184)
7. PLES (10-B assignment) rosters
8. Strip search authorization form (SFPD Form 305)
9. Property logs (from both stations and property control) (SFPD Form 230)
10. Public Intoxication Report (SFPD Form 69)
11. Medical Screening Form (SFPD Form 54)
12. Drug Influence Evaluation Report (SFPD Form 26A&B)
13. Prisoner Transfer Record (SFPD Form 78)
14. Demonstration Memorandum (SFPD Form 77)
15. Cold Show Admonishment (SFPD Form 466)
16. Photographic Line-up Instructions (SFPD Form 467)
17. Line-up Record (SFPD Form 56)
18. Permission to Search Form (SFPD Form 468)
19. Citizen Arrest Form (SFPD Form 80)
20. Field Interview Card (SFPD Form 114)
21. Field Arrest Card
22. Arrest Record/Booking Slip (Form 3800-09)
23. Property Release Form (SFPD Form 158)

24. Property Receipt Form (SFPD Form 315)
25. SFPD officer photographs
26. SFPD officer weight and height descriptions
27. Media footage
28. Officer notes
29. Fleet management records
30. Citation log book records
31. DABOR reports (post-hearing)
32. Payroll records
33. Unit orders
34. Roll call training logs
35. Academy training records
36. POST training materials
37. Firearms Training Roster (SFPD Form 53)
38. Demonstration squad charts
39. Event operation orders
40. Verification of latent fingerprint request (SFPD Form 235)(not incl. results)
41. Overtime and Holiday Watch Report (SFPD Form 238)
42. SFPD Dismissal Request (SFPD Form 256)
43. Intoxilizer Model 5000 Checklist (or other models) (SFPD Form 15)
44. Anticipated Watch Report (SFPD Form 22)
45. Drug Influence Evaluation Report (SFPD Form 26)
46. Citizen Complaint Investigation Memorandum
47. Ride-along Request and Review (SFPD Form 84)
48. Officer's Daily Report (Traffic Division) (SFPD Form 106)
49. Corrected Watch Report (SFPD Form 117)
50. Hit and Run Record (SFPD Form 133)
51. Driving Under the Influence Report (SFPD Form 284A-D)
52. Driving Under the Influence Card (SFPD Form 462)
53. Traffic Court Report (SFPD Form 295)
54. DMV Traffic Accident Report Form
55. DMV Order of Suspension (Form 360 & 360(A))
56. DMV Officer's Statement
57. DMV Supplement to Officer's Statement (Blood/Urine Test Results)
58. DMV Verbal Notice by Police Officer
59. Affidavit of Termination of Investigation (SFPD Form 470)
60. 14601 CVC Report (SFPD Form 164)
61. 12500 CVC Report (SFPD Form 164(a))
62. PacBell Park activity logs
63. Candlestick Park activity logs
64. Airport activity logs
65. Cell Check Log (SFPD Form 51)
66. Notice of Motor Vehicle Accident (SFPD Form 325)
67. Secondary Employment Application (SFPD Form 156)
68. Domestic Violence Response Unit Tapes
69. Court Protective Orders or Emergency Protective Orders
70. Domestic Violence Supplemental Report forms (SFPD 480a & 480b)
71. Station Arrest Logs

APPENDIX "B"

1. Juvenile secure detention logs (SFPD Form 71)
2. YGC Admission Form (No.71)

PUBLIC COMMENTS

Richard Strickman stated that despite the efforts of Chief Fagan, police

are still attempting to arrest him for no reason and are preventing from defending himself from a stalker.

Malaika Parker, Bay Area Police Watch, stated that the Police Commission are still not addressing the issue of how police are treating citizens.

Barry Torantino, cab driver, spoke on three issues. A small demonstration by cab drivers in front of the Hilton Hotel which was non violent where the district captain sent too many troops to handle the situation. He also stated that the police are not enforcing diamond lane near the Ball Park.

Commissioner Friday advised Mr. Torantino to bring these matters to the Taxi Commission.

Thereafter, the meeting was adjourned at 7:30 p.m.

Lt. Edward Geeter, #1273

_____

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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Commissioner

LT. EDWARD GEETER
Secretary

3/03

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JULY 23, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

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1. Pledge of Allegiance
2. Roll Call
3. Approval of Minutes for the Meeting of July 9, 2003 (ACTION ITEM)
4. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)
5. Chief's Announcements and Review of Recent Department Events
6. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
7. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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JULY 23, 2002 REGULAR MEETING

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:50 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Quaranta
ABSENT: Commissioner Friday

APPROVAL OF MINUTES FOR THE MEETING OF JULY 9, 2003

Commissioner Makras made a motion for approval of the minutes of the July 9th Commission meeting. Second by Commissioner Chan. Approved 4-0.

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry announced that next week Commission meeting will be held a the Tenderloin Police Station.

Commissioner Makras asked if the Department will soon be ready to report on the issue of an independent investigator to look into how the Department investigated the November 20th incident involving three off-duty police officers. Chief Fagan stated that the Department will be submitting a report on the issue.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Fagan reported that Director Ridges of Homeland Security was in the city today and that there were about 150 demonstrators that protested without incident. He also stated that Governor Davis was also in the city today without incident.

Chief Fagan informed the Commission that, after discussion with the City Attorney's office, he will recuse himself from the investigation of possible violations of General Order 8.10 because he most likely will be a witness. He stated that Acting Assistant Chief Fong would be the disciplinary officer on this issue.

Commissioner Makras asked if the possibility of the Chief being a possible witness prevents him from overseeing the situation and stated that if the top person doesn't handle the situation, it might appear that there is something to hide.

Deputy City Attorney Mariam Morley addressed the Commission stating that she will prepare a report to the Commission explaining why the Chief should recuse himself.

Chief Fong stated that in light of tonight's discussion, she will wait until after the Commission have received and reviewed the City Attorney's report before she reported to the Commission on the issue.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, stated that they have a tentative list of 10 senior investigators and that they are in the process of ranking them.

PUBLIC COMMENTS

Mark Schlosberg, ACLU, wanted to insure that the report on the General Order 8.10 will be forthcoming and made public. He stated that he did not understand why there is a conflict with Chief Fagan reviewing the report or Deputy Chief Fong.

Ms. Robyn Few reported to the Commission that narcotic officers are not following the department bulletin regarding medical marijuana use and that names and case files that were dismissed in San Francisco court were turned over to the Federal units for prosecution. She stated that this is in violation of Board of Supervisor resolution naming San Francisco as a sanctuary for medical cannabis.

Thereafter, the meeting was adjourned at 6:05 p.m.

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

JULY 28, 2003 SPECIAL MEETING

PROCEDURAL HEARING FOR TAKING OF EVIDENCE BY COMMISSIONER WAYNE FRIDAY IN THE DISCIPLINARY CHARGES FILED AGAINST OFFICER LAURENCE B. BARKER, SUPPORT SERVICES (FILE NO. C1-177 JWA)

The hearing for taking of evidence in the disciplinary charges filed against Officer Laurence B. Barker, Support Services, was called at 9:05 a.m., it having been set for this day.

Mr. Jerry W. Akins, Attorney at Law, appeared on behalf of the San Francisco Police Department.

Officer Laurence Barker appeared in person and was represented by Mr. Earl Disselhorst, Attorney at Law.

Attorney Disselhorst submitted three motions: two written and one verbal. The first written motion was objecting to just one Commissioner hearing the case. This motion was denied.

The verbal motion stating that the case was in violation of Government Code 3304, one-year limitation, was denied.

The third motion that all evidence be suppressed due to Officer Barker not being given his rights under Government Code 3300 was submitted and written responses are due by August 13, 2003. Commissioner Friday will give his ruling on Friday, August 15, 2003.

The hearing was then adjourned at 9:30 a.m. and continued on Tuesday, August 26, 2003, at 9:00 a.m.

(The entire proceedings were taken in shorthand form by Ms. Dawn Sandner, CSR)

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA
REGULAR MEETING
WEDNESDAY, JULY 30, 2003
6:00 p.m.

TENDERLOIN DISTRICT
TENDERLOIN STATION COMMUNITY ROOM
301 Eddy Street
San Francisco

DOCUMENTS DEPT

JUL 28 2003

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1. Pledge of Allegiance
2. Roll Call
3. Approval of Minutes for the Police Commission Meetings of July 16th & 23, 2003 (ACTION ITEM)
4. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)
5. Chief's Announcements and Review of Recent Department Events
6. OCC Director's Report re: Staffing, Budget and Summary of Recent Events
7. Captain David Shinn, Commanding Officer of Tenderloin Station, to address the Commission on Police Activities in the Tenderloin District (DISCUSSION ONLY)
8. Public Comments
   (Members of the public may address the Commission for up to 3 minutes for individuals or up to 5 minutes for groups. The President of the Commission may limit the total testimony time.)

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**There will be Public Comments on any item before or during discussion of each item.*

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San Francisco Police Commission
and
Tenderloin Police Station

Is Hosting a Meeting
of the
San Francisco Police Commission
and
Citizens of the Tenderloin District
Wednesday
July 30, 2003, 6:00 PM
at
The Tenderloin Police Station Community Room
301 Eddy Street

SAN FRANCISCO POLICE
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

Communication accessibility services; including sign language Interpreters or computer aided real time captioning will be made available upon advance request. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406(tty), at least 72 hours prior to a proceeding. Late requests will be honored if possible.

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The proceeding will be held at: The Tenderloin Police Station Community Room
301 Eddy Street, San Francisco

Accessible MUNI lines serving this location is: 31 Balboa & 27 Bryant, Muni Metro Powell Stree
For information about MUNI service call 923 6142

The closest BART Station is: Powell Street Bart Station

Accessible parking at the Tenderloin Police Station

For information about the meeting call 553-1667 (v) or 553-9194 (tty)

JULY 30, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in the Tenderloin District, Tenderloin Police Station Community Room, 301 Eddy Street, San Francisco, at 6:10 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Friday
ABSENT: Commissioners Chan, Quaranta

APPROVAL OF MINUTES FOR THE POLICE COMMISSION MEETINGS OF JULY 16th & 23, 2003

Commissioner Friday made a motion for approval of the minutes for the Police Commission meetings of July 16th and 23, 2003. Second by Commissioner Makras. Minutes approved 3-0.

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioners Perry, Makras and Friday introduced themselves and gave a brief background.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Acting Chief Fagan introduced himself and the members of the Command Staff: Deputy Chief Fong, Deputy Chief Robinson, Deputy Chief Suhr, Commanders Hom, Harper, Brown, and Puts.

OCC DIRECTOR'S REPORT RE: STAFFING, BUDGET, AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, introduced himself and reported that his office is looking into hiring an investigator.

Commissioner Perry introduced Reverend Cecil Williams of Glide Memorial Church. Reverend Williams spoke on the issue of crime in the Tenderloin District due to what he believes is the influx of homeless and people with mental problems housed in the district. He also stated that there will be march against violence on August 14th at 5:00 p.m. starting at Glide Church.

Commissioner Perry also recognized Mr. Greg Lowder of the Mayor's Crime Task Force.

CAPTAIN DAVID SHINN, COMMANDING OFFICER OF TENDERLOIN STATION, TO ADDRESS THE COMMISSION ON POLICE ACTIVITIES IN THE TENDERLOIN DISTRICT

Captain Shinn addressed the Commission and gave an update of police activities in the Tenderloin District.

PUBLIC COMMENTS

Ms.. Gale Woods, a resident of the district for 33 years wanted to lend support of what was said by Reverend Cecil Williams, that violent crime appears to be on the increase.

Captain Mason, Mason Security Guard, commended Captain Shinn for helping in cleaning U.N. Plaza and Carl's Jr. At 7th and Market Streets.

Ms. Marilyn Isabel commended Captain Shinn for his help in cleaning the neighborhood and asked if she or others could participate in the training by

SAFE of S.R.O. hotels.

Ms. Maria Gordon asked the Commission for help to clean the area of drug dealers. She stated, "We need help!" and gave photographs of the area for the Commission to see.

Mr. Ron Sandles, resident of the Chambers on Ellis Street, asked for help and stated that drug dealers are bringing down the neighborhood.

Ms. Lee Curry, resident, stated that people are getting more violent inside hotels and outside. She stated that Captain Shinn is doing a great job and asked for support for his Stay Away Program.

Commission Perry asked Captain Shinn to explain the Stay Away Program.

Captain Shinn explained that, with the help of the district attorney's office, once a person has been arrested several times in the same area, a stay away order can be issued. If that person is seen in the area, he or she can be arrested. Captain Shinn stated that this program is helping with some drug dealers.

Mr. David Larobis commended Captain Shinn for his community support in improving the quality of life.

Ms. Estella, resident of Chambers Hotel, thanked Captain Shinn for doing a good job. She also stated that once drugs dealers are arrested, they are replaced by young kids, 15 to 16 year olds.

Ms. Denise Castinilla, Mayor's Office, commended Captain Shinn for the work he is doing in the Tenderloin District. She stated that Captain Shinn is well-liked by the community.

Mr. Fred Hoppson thanked Captain Shinn for a job well done. He also stated that on August 12th, they will be honoring Chief Sanders and POA President Chris Cunnie.

Todd, Glide Church, stated that there will be a march against violence on August 14th starting at 5:00 p.m. at Glide Church.

Ed commended Captain Shinn and Captain Davenport for their help in the quality of life issues. He stated that, in order to make the quality of life work, the police should also go after unlicensed street carts, skateboarders on sidewalks.

Ms. Marian Melby thanked Captain Shinn and his officers for a job well done. She also stated that there should be a closer working relationship with Southern Station and BART Police.

Ms. Lori Chin, after school teacher, thanked Captain Shinn in his help in the school programs. The officers have visited the school, talked with the children about their job, read to them, given tours of the police station, police cars, and police dogs.

Mr. Shaun Collins thanked Captain Shinn for the good job he is doing but stated that it is not enough and much more is needed. He stated that officers make arrest on one corner, the dealers move to the next corner. He asked that more be done.

Ms. Lynn Bowman, Union Square Improvement Organization, thanked the officers for doing a fine job.

Ms. Linda McGillian, Union Square Improvement Organization, thanked the officers for a great job during the antiwar demonstrations. She invited all in attendance to come to the Union Street Café's grand opening on Thursday, July 31st, at 12:30 p.m. Ribbon cutting by Mayor Brown.

Mr. Eddie Eglis thinks the problem is larger than the Tenderloin and that it's a city-wide problem and can only be solved by ballot and voted on by the city.

Ms. Rebecca Dorman invited all in attendance to an event on August 6th, Take Back Boedecker Park.

Jan thanked Captain Shinn and the officers of the Tenderloin for their assistance in ridding her building of invaders.

Mr. Terrence Allen, business owner, stated that to improve the

neighborhood, it needs a task force to work towards reviving the community through arts and entertainment and business into the neighborhood.

Elaine, small business owner, stated that Captain Shinn have done wonders with the resource he has, but the community needs much more.

Unidentified thanked the Commission for holding the meeting in Tenderloin District.

Thereafter, the meeting was adjourned at 7:55 p.m.

Lt. Edward Geeter, #1273

_____

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

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Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, AUGUST 6, 2003
5:30 p.m.

DOCUMENTS DEPT.

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Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

1. Pledge of Allegiance
2. Roll Call
3. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)
4. Chief's Announcements and Review of Recent Department Events
5. Report on Department General Order 8.10 Investigation and Discussion & Action on the Assistant Chief's Recommendation as to the Course of Action on Potential Discipline (ACTION ITEM)
6. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
7. Request of the Chief of Police for Approval to take the Disciplinary Case of Officer James McKeever, Traffic (File Nos. C02-033 JWA & C00-295 JWA) Off Calendar due to Officer McKeever's Retirement (ACTION ITEM)
8. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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SAN FRANCISCO POLICE COMMISSION
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The proceeding will be held at the Hall of Justice, 850 Bryant Street, 5th floor Police Commission Hearing Room. The closest accessible BART station is 5th and Mission Streets. Accessible MUNI lines serving this location are 42 and 9X San Bruno Express.

For information about MUNI service call 923 6142

Accessible parking is available in front of the Hall of Justice, 850 Bryant Street.

Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

AUGUST 6, 2003 REGULAR MEETING

The Police Commission of the City and County of San met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:30 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Friday
ABSENT: Commissioner Quaranta

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry asked when is the next district meeting. Lieutenant Geeter, Secretary to the Police Commission, advised the Commission that the next district meeting is scheduled for September 24th at Taraval Station.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Acting Assistant Chief Fong reported to the Commission that the Police Department has been busy working on a number of projects as directed by the Commission and Chief Fagan. She stated that this was the first meeting of the month; therefore, Captain O'Leary will update the Commission of all scheduled disciplinary cases including Government code 3304 issues.

Captain Denis O'Leary, Risk Management, updated the Commission on the status of all disciplinary cases being investigated by either the Police Department or the OCC.

Chief Fagan arrived, apologized for being late and explained that he was at a meeting at the Mayor's office discussing staffing and budget issues. He stated that the City had received $3.3 million from Homeland Security and he was hoping the department could receive some of that money.

REPORT ON DEPARTMENT GENERAL ORDER 8.10 INVESTIGATION AND DISCUSSION & ACTION ON THE ASSISTANT CHIEF'S RECOMMENDATION AS TOT HE COURSE OF ACTION ON POTENTIAL DISCIPLINE

Chief Fong reported on her investigation into possible violation of General Order 8.10. Chief Fong stated, as a result of the investigation and even before the investigation was completed, the department has taken steps to ensure that no further violations take place.

Chief Fong stated that additional training was conducted on First Amendment issues and that by the end of March, 90 percent of the command staff, including captains and lieutenants, had been trained on First Amendment Rights issues. She further stated that by the end of March, weekly roll call training was completed department-wide. The roll call training discussed guidelines for First Amendment Rights issues. The information contained in the training was the criteria personnel needs to meet in order to conduct criminal investigations involving First Amendment Rights issues and how to obtain authorization and that Deputy Chiefs and Commanders reviewing such request need to refer to FOB General Order and General Order 8.10.

Chief Fong stated that the ACLU had been given a copy of both orders and in the near future if they want to work with the department on possible General Order changes, Mr. Schlosberg is welcome.

Chief Fong stated that in relation to administrative investigation, she is

prepared to schedule a Chief's Hearing on the matter unless directed otherwise by the Commission.

PUBLIC COMMENTS:

Mark Schlosberg, ACLU, spoke on the issue of the investigation of General Order 8.10 stating that it's good to hear that training has taken place but he felt that it would be good t o know what the training is and what was training before in order to make sure the training is effective and will have an impact on officers' conduct so these types of things don't happen in the future. He also stated that General Order 8.10 is a strong policy that needs to be enforced not revised.

Commissioner Perry asked for a motion to continue the personnel matter in closed session in order to confer with the City Attorney.

Commissioner Chan made a motion to continue the administrative portion of the investigation in closed session. Commissioner Makras asked if that motion could include an open and closed session. The motion was second by Commission Friday to continue within a week in closed session to confer with the City Attorney. Motion approved 4-0.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, stated that his office is waiting to see what his budget will look like and that it should be back from City Hall next week. He also stated that his office is working on the office data system to be comparable to the Police Department's system.

REQUEST OF THE CHIEF OF POLICE FOR APPROVAL TO TAKE THE DISCIPLINARY CASE OF OFFICER JAMES MCKEEVER, TRAFFIC (FILE NOS. C02-033 JWA 7 C00-295 JWA) OFF CALENDAR DUE TO OFFICER MCKEEVER'S RETIREMENT

Commissioner Chan made a motion to remove Officer James McKeever's case off calendar. Second by Commissioner Friday. Motion approved 4-0.

RESOLUTION NO. 45-03

HEARING OF OFFICER JAMES MCKEEVER, TRAFFIC (FILE NOS. C02-033 JWA & C00-295 JWA)

WHEREAS, on May 15, 2002, Fred H. Lau, former Chief of Police, made and served disciplinary charges against Officer James McKeever, Traffic, as follows:

(File No. C02-033 JWA)

SPECIFICATION NO. 1

Engaging in conduct which subverts the order, efficiency and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

(File No. C00-295 JWA)

SPECIFICATION NO. 1

Engaging in conduct which subverts the order, efficiency and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 2

Engaging in conduct which subverts the order, efficiency and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

WHEREAS, Attorney Jerry W. Akins, Management Control Division, announced that Officer James McKeever has retired from the San Francisco Police Department, said retirement effective close of business July 1, 2003; therefore be it

RESOLVED, that the charges of violating the Rules and Procedures of the San Francisco Police Department filed against Officer James McKeever, Traffic, be, and the same are hereby continued off calendar.

AYES: Commissioners Perry, Makras, Chan, Friday
ABSENT: Commissioner Quaranta

PUBLIC COMMENTS

Mr. Frank Del Campo, Local 790, asked the Commission to look into why Chief Fagan will not meet with him to discuss a grievance involving a civilian employee of the department. He stated he has written two letters to the Chief but has not received a reply. He presented a copy of the letter to the Commission.

Mr. Mark Schlosberg, ACLU, asked a question in regards to Captain O'Leary's report. He wanted to know how many cases are pending 60 days or more in the Chief's office.

Mr. Allen White, SF Sentinel, addressed the Commission regarding OCC investigation of the incident of three off duty officers on November 20, 2002 and the lack of a policy of what and how to investigate. He stated that OCC case #888-02 should be dismissed.

Thereafter, the meeting was adjourned at 6:00 p.m.

Lt. Edward Geeter, #1273

_____

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

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SAN FRANCISCO POLICE COMMISSION AGENDA

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REGULAR MEETING
WEDNESDAY, AUGUST 13, 2003
Closed Session 5:00 p.m.
Open Session 5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

1. Roll Call

2. Public Comments on all matters pertaining to the Closed Session

3. Vote on whether to hold Closed Session to confer with legal counsel on potential discipline of officers. (San Francisco Administrative Code Section 67.10(d)) (ACTION ITEM)

4. Closed Session held pursuant to Government Code Section 54957

   PUBLIC EMPLOYEE PERFORMANCE EVALUATION

   Discussion and Action re: Discussion with Acting Assistant Chief Heather Fong and Counsel regarding Potential Discipline of Officers for Violation of Department General Order 8.10

5. Reconvene in Open Session; Pledge of Allegiance

6. Discussion and vote to elect whether to disclose any or all discussion held in closed session (San Francisco Administrative Code Section 67.12(a). (ACTION ITEM)

7. Approval of Minutes for the Police Commission Meetings of July 30, 2003 and August 6, 2003 (ACTION ITEM)

8. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)

9. Chief's Announcements and Review of Recent Department Events (DISCUSSION ONLY)

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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WAYNE FRIDAY
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ANGELO QUARANTA
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LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, AUGUST 13, 2003
Closed Session 5:00 p.m.
Open Session 5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

10. OCC Director's Report re: Staffing and Budget and Summary of Recent Events (DISCUSSION ONLY)

11. Public Comments
(Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

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AUGUST 13, 2003 **CLOSED SESSION**

The Police Commission of the City and County of San Francisco met in their chambers, Room 505-2, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:15 p.m., in Closed Session.

PRESENT: Commissioners Perry, Chan, Quaranta
ABSENT: Commissioners Makras, Friday

VOTE ON WHETHER TO HOLD CLOSED SESSION TO CONFER WITH LEGAL COUNSEL ON POTENTIAL DISCIPLINE OF OFFICERS

Commissioner Chan made a motion to hold a Closed Session. Second by Commissioner Quaranta. Motion approved 3-0.

CLOSED SESSION HELD PURSUANT TO GOVERNMENT CODE 54957

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Discussion and action re: Discussion with Acting Assistant Chief Heather Fong and Counsel regarding Potential discipline of Officers for Violation of Department General Order 8.10

AUGUST 13, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Chan, Friday, Quaranta
ABSENT: Commissioner Makras

DISCUSSION AND VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(A))

Commissioner Perry announced that during Closed Session, the Commission discussed Assistant Chief Fong's recommendation that the officers involved in the General Order 8.10 violation be disciplined at the Chief's level. The Commission concurred. The officers involved will be disciplined at the Chief's level.

Commissioner Friday made a motion not to disclose discussion held in Closed Session. Second by Commissioner Quaranta. Approved 4-0.

APPROVAL OF MINUTES FOR THE POLICE COMMISSION MEETINGS OF JULY 30, 2003 AND AUGUST 6, 2003

Commissioner Chan made a motion to approve minutes for the Police Commission meetings of July 30, 2003 and August 6, 2003. Second by Commissioner Friday. Approved 4-0.

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Lieutenant Geeter, Police Commission Secretary, announced that the next district Commission meeting will be at Taraval Police Station on September 24, 2003.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Acting Chief Fagan reported on the medical condition of two female officers who were stabbed by a suspect two days prior. Chief Fagan informed the Commission that Inspector Lea Militello was released and that Inspector Pat Correa was returned to intensive care after her surgery. Inspector Correa was stabbed twice by the suspect.

Chief Fagan thanked the Daly City Police and the medical team at SF General for all their help in this matter.

Chief Fagan informed the Commission that the final stages of a promotion list should be completed by the weekend. He anticipates promoting 17 inspectors, 25 sergeants, and 10 lieutenants.

Lieutenant Beijen and Captain O'Malley, Juvenile Unit, presented Officer Kim Mercer with a recognition award frm the California Juvenile Officers' Association and the California Youth Authority for her excellent work in crime prevention and apprehension of those who commit crimes against children.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, extended best wishes to the officer who were stabbed.

Director Allen reported that he has interviewed five candidates for the open senior investigator position and stated that by next week, he should be ready to hire one of those five.

He then reported on OCC cases that are more than 10 months old.

PUBLIC COMMENTS

Malaika Parker, Bay Area Police Watch, stated that the recent announcement of Chief Fagan becoming the Chief of Police concerns and confirms the lack of accountability in San Francisco. She stated to not have an expanded search for a police chief concerns her.

Frank Del Campo, Union Representative, thanked the Commission for its assistance in helping to set a meeting to address problems. He also wanted to bring to the attention of the Commission the EEO complaint filed by Beverly Sterrup and the lack of support from the City Attorney and the Department.

Beverly Sterrup stated that the problem has been ongoing for over a year an that she would like to see an end to it.

Connie Webber addressed the Commission and stated how pleased she was on the job Captain Corrales and his undercover officers are doing. However, she thinks that drug dealers should be kept in jail and not released after one day.

Vivian congratulated Captain Corrales for the great job he is doing. She asked that someone speaks to the district attorney to do something other than get this picture on the newspaper.

Thereafter, the meeting was adjourned at 6:10 p.m.

_____

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT EDWARD GEETER
Secretary

0/03

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, AUGUST 20, 2003
Closed Session 5:00 p.m.
Open Session 5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

DOCUMENTS DEPT.

AUG 19 2003

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1. Roll Call

2. Public Comments on all matters pertaining to the Closed Session

3. Vote on whether to hold Closed Session to confer with legal counsel. (San Francisco Administrative Code Section 67.10(d)) (ACTION ITEM)

4. Closed Session held pursuant to Government Code Section 54957

   PUBLIC EMPLOYEE APPOINTMENT
   To Determine nomination's for Chief of Police to Submit to the Mayor

5. Reconvene in Open Session; Pledge of Allegiance

6. Discussion and vote to elect whether to disclose any or all discussion held in closed session (San Francisco Administrative Code Section 67.12(a). (ACTION ITEM)

7. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)

8. Chief's Announcements and Review of Recent Department Events (DISCUSSION ONLY)

9. OCC Director's Report re: Staffing and Budget and Summary of Recent Events (DISCUSSION ONLY)

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, AUGUST 20, 2003
Closed Session 5:00 p.m.
Open Session 5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

10. Public Comments
(Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

*There will be Public Comments on any item before or during discussion of each item.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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Lobbyist Registration and Reporting Requirements
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SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

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AUGUST 20, 2003 **CLOSED SESSION**

The Police Commission of the City and County of San Francisco met in their chambers, Room 505-2, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:10 p.m., in Closed Session.

PRESENT: Commissioners Perry, Chan, Quaranta
ABSENT: Commissioner Makras, Friday

PUBLIC COMMENTS ON ALL MATTERS PERTAINING TO THE CLOSED SESSION

None

CLOSED SESSION HELD PURSUANT TO GOVERNMENT CODE SECTION 54957

PUBLIC EMPLOYEE APPOINTMENT
To determine nominations for Chief of Police to submit to the Mayor

AUGUST 20, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:30 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

DISCUSSION AND VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(a))

Commissioner Friday made a motion not to discuss or disclose discussion held in Closed Session. Second by Commissioner Quaranta. Approved 5-0.

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry asked when the next Traffic Stop Survey report is due. Acting Chief Fagan stated that a report will be made at the next Commission meeting.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Acting Chief Fagan reported that the National Asian Police Officers Association were holding their national convention in the city this week. Headquarters is at Holiday Inn on Kearny Street.

Chief Fagan also reported that a group from Russia were attending a conference in which SFPD members are involved. The conference was centered around hate crime issues. The group met several times with members of the San Francisco Police Department. The visiting group were delayed a few days in New York due to the power failure.

Chief Fagan also informed the Commission that the members due to be promoted to inspectors, sergeants, and lieutenants will attend training at the Academy from August 25th to the 29th. After training, they will be promoted on August 30th. The command staff are preparing for the transfer of personnel to replace those who are being promoted.

Commissioner Perry asked if the promotions will leave a hole in certain areas. Chief Fagan stated that the Command Staff is working on that issue and hopes to have appropriate personnel to move to the Field Operations Bureau.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, reported that a group of citizens from Haiti were visiting the OCC to confer on police reform and women's rights issues.

Director Allen also reported that OCC investigator Cheri Toney was promoted to Senior Investigator.

PUBLIC COMMENTS

Mr. Phil Ryan, attorney for Chief Sanders, addressed the Commission and presented the Commission with two documents: (1) A supplemental declaration of factual innocence; and (2) A formal order of factual innocence signed by a Superior Court judge.

Ms. Shannon Altamirano, Bay Area Police Watch stated that they are deeply concerned about Acting Chief Fagan being appointed Chief. One reason for concern is that the Acting Chief is being appointed by an outgoing Mayor and therefore, won't be serving under him.

Thereafter, the meeting was adjourned at 6:00 p.m.

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

PROCEDURAL HEARING FOR TAKING OF EVIDENCE BY COMMISSIONER WAYNE FRIDAY IN THE DISCIPLINARY CHARGES FILED AGAINST OFFICER LAURENCE B. BARKER, SUPPORT SERVICES (FILE NO. C1-177 JWA)

The hearing for taking of evidence in the disciplinary charges filed against Officer Laurence B. Barker, Support Services, was called at 9:25 a.m., it having been set for this day.

Mr. Jerry W. Akins, Attorney at Law, appeared on behalf of the San Francisco Police Department.

Officer Laurence Barker appeared in person and was represented by Mr. Earl Disselhorst, Attorney at Law.

Mr. Disselhorst asked, on behalf of Officer Barker, that the hearing be closed to the public. Motion was approved by Commissioner Friday.

The following witnesses appeared for the Department, were sworn and testified:

Officer Thomas J. Costello
Officer Al Wong
Lieutenant Richard Corriea
Officer Daryl Fong
Sergeant Nelson Lum
Inspector Peter Walsh
Officer Laurence Barker

The following witnesses appeared for the Defense, were sworn and testified:

Officer Laurence Barker
Mrs. Shirley Barker

The following exhibits were entered for identification by the Department:

Exhibit No. 1	Photograph of a sign stating "W.T.C. Survivor - Relief Fund, Please help"
Exhibit No. 2	Two photographs of Officer Barker in uniform wearing a uniform cap taken at Central Station's Assembly Room
Exhibit No. 7	Envelope containing U.S. Currency 37 one-dollar bills, one five-dollar bill, and one 20-dollar bill
Exhibit No. 8	Envelope containing U.S. Coins amounting to $5.62
Exhibit No. 9	Envelope containing U.S. Coins amounting to $7.15
Exhibit No. 10	Enlarged photo of a prescription

The following exhibits were identified and entered into evidence by the

Department:

Exhibit No. 3	A silver can, approximately 14" high and 8" in diameter, with flag decals on the outside
Exhibit No. 4	A Toxicology Report form the Institute of Forensic Sciences Laboratory (Urine Test)
Exhibit No. 5	A SFPD Uniform Cap
Exhibit No. 6	B.D.U. Uniform Shirt with Star No. 1040 and the name of Barker, L.

The hearing was then adjourned at 4:00 p.m.

(The entire proceedings were taken in shorthand form by Ms. Dawn D. Sandner, CSR)

Lt. Edward Geeter, #1273

_____

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

The Police Commission

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Secretary

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27/03

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, AUGUST 27, 2003
Closed Session 5:00 p.m.
Open Session 5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

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1. Roll Call

2. Public Comments on all matters pertaining to the Closed Session

3. Vote on whether to hold Closed Session to confer with legal counsel. (San Francisco Administrative Code Section 67.10(d)) (ACTION ITEM)

4. Closed Session held pursuant to Government Code 54956.9 and San Francisco Administrative Code Section 67.10(d)

   CONFERENCE WITH LEGAL COUNSEL - Existing Litigation

   a. Eric M. Hansen v. City and County of San Francisco, Claim No. 03-01152
   b. Jonathan Johnson v. City and County of San Francisco, San Francisco Superior Court No. 322-080

5. Reconvene in open session; Pledge of Allegiance

6. Discussion and vote to elect whether to disclose any or all discussion held in closed session (San Francisco Administrative Code Section 67.12(a). (ACTION ITEM)

7. Approval of Minutes for the Police Commission Meetings of August 13th and 20, 2003 (ACTION ITEM)

8. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)

9. Chief's Announcements and Review of Recent Department Events (DISCUSSION ONLY)

10. OCC Director's Report re: Staffing and Budget and Summary of Recent Events (DISCUSSION ONLY)

The Police Commission

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, AUGUST 27, 2003
Closed Session 5:15 p.m.
Open Session 5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

11. Public Comments
(Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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AUGUST 27, 2003 **CLOSED SESSION**

The Police Commission of the City and County of San Francisco met in their chambers, Room 505-2, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:05 p.m., in Closed Session.

PRESENT: Commissioners Perry, Makras, Chan, Quaranta
ABSENT: Commissioner Friday

PUBLIC COMMENTS ON ALL MATTERS PERTAINING TO THE CLOSED SESSION

None

VOTE ON WHETHER TO HOLD CLOSED SESSION TO CONFER WITH LEGAL COUNSEL. (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.10(d))

Commissioner Quaranta made a motion to hold a Closed Session. Second by Commissioner Makras. Approved 4-0.

CLOSED SESSION HELD PURSUANT TO GOVERNMENT CODE 54956.9 AND SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.10(d)

CONFERENCE WITH LEGAL COUNSEL - Existing Litigation

a. Eric M. Hansen v. City and County of San Francisco, Claim No. 03-01152
b. Jonathan Johnson v. City and County of San Francisco, San Francisco Superior Court No. 322-080

RESOLUTION NO. 46-03

ERIC M. HANSEN v. CITY AND COUNTY OF SAN FRANCISCO

RESOLVED, that the recommendation of the City Attorney for settlement of the litigation of "Eric M. Hansen v. City and County of San Francisco," in Claim No. 03-01152, be, and the same is hereby approved.

Date of Incident: July 13, 2002

AYES: Commissioners Perry, Makras, Chan, Quaranta
ABSENT: Commissioner Friday

RESOLUTION NO. 47-30

JONATHAN JOHNSON v. CITY AND COUNTY OF SAN FRANCISCO, et al

RESOLVED, that the recommendation of the City Attorney for settlement of the litigation of "Jonathan Johnson v. City and County of San Francisco, et al.," in San Francisco Superior Court No. 322-080, be, and the same is hereby approved.

Date of Incident: September 6, 2000

AYES: Commissioners Perry, Makras, Chan, Quaranta
ABSENT: Commissioner Friday

AUGUST 27, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:45 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Quaranta
ABSENT: Commissioner Friday

DISCUSSION AND VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(a)

Commissioner Chan made a motion not to disclose discussion held in Closed Session. Second by Commissioner Quaranta. Approved 4-0.

APPROVAL OF MINUTES FOR THE POLICE COMMISSION MEETINGS OF AUGUST 13TH AND AUGUST 20, 2003

Commissioner Chan made a motion to approve the minutes of the Police Commission meetings of August 13th and 20, 2003. Second by Commissioner Quaranta. Approved 4-0.

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry announced that last week the Commission met in Closed Session and sent nominations to the Mayor regarding the new Police Chief. Today, the Commission has the Mayor's response. Commissioner Perry read the Mayor's response:

"Dear President Perry:

I have received your August 20, 2003 letter nominating Alex Fagan, Sr. to succeed Earl Sanders as Chief of Police..

I hereby appoint Alex Fagan Sr. as the Chief of Police of San Francisco, effective September 13, 2003.

In addition, I further recommend that Heather Fong be appointed the Assistant Chief of Police. I do this in the same manner in which I recommended Earl Sanders be Assistant Chief under Fred Lau and, later, Alex Fagan to be Assistant Chief under Earl Sanders."

Commissioner Perry also announced that there will be no Police Commission meeting on Wednesday, September 3rd.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Acting Chief Fagan reported that an officer was injured, struck by a motorcyclist, while in a foot pursuit of a suspect. He is being examined for a possible broken leg.

Acting Assistant Chief Fong reported on the status of the selection of an independent investigator to look into how the Police Department investigated the November 20, 2002 incident where three off-duty officers were allegedly involved in an assault on two citizens.

Chief Fong stated that the RFP request for proposal were sent to 33 individuals plus those who could get the information from the Police

Department's website.

Commissioner Makras asked why an individual could get 100 points from the answers submitted and then downgraded after an oral interview. Chief Fong stated that when documents submitted are read, it might not be as clear as when asked in an oral interview setting. She further stated that if the Commission had concerns that they will be willing to work with the Commission to address those concerns and report back to the Commission.

Commissioner Perry asked if this is the normal procedure in awarding RFP. Chief Fong stated yes, this procedure was worked out in conversation with the City Purchasing Department, the Human Rights Commission, and the Risk Management Department.

Deputy Chief Attorney Mariam Morley addressed the Commission and stated that she would research the issue and report back to the Commission.

Deputy Chief Suhr reported to the Commission on two issues. Chief Fagan had received a phone call from Supervisor Maxwell regarding an incident that had occurred on Monday, August 25th, where alleged inappropriate police action took place. He stated that he, Deputy Chief Robinson, Captain Puccinelli, Lt. Johnson, and officers from Bayview Station met with the African-American Community Relations Board to discuss the issue. The Community Relations Board will meet tomorrow with the community to discuss the issue and meet again with the department to discuss concerns.

Chief Suhr also reported on an incident that occurred in the area of John O'Conner School where officers followed and arrested two adults driving in the area with a loaded gun in the car, possibly preventing gang activity.

Commander Dudley, recently assigned to the SOS Division, reported on a training exercise with state and federal agency on spontaneous disasters in San Francisco. He stated that Chief Bruce did a great job in preparing the Department and that, at this state, the Department is waiting for grant money and more training which the command staff will be working on.

Commander Puts, FOB, addressed the Commission on the status of the Traffic Stop survey (racial profiling) stating that the Department is 96 percent in compliance and looking at the reasons for not being at 100 percent.

Steve Lutes also reported on the issue of the Traffic Stop survey. He reported that the department is apply for a grant to hire an outside expect to evaluate the statistics and to determine if the information we are getting is useful for what the department is attempting to do and he stated that there are several experts in this field that the department is looking at from the academic community.

Mark Schlosberg, ACLU, asked if the grant proposal addressed the issue of community involvement. He was assured that it does.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, stated that he met with the POA and a lot of difficult questions were asked and answered. He hopes that the concerns that were discuss will strengthen the relationship on both sides.

Director Allen stated that his office are being advised by the City Attorney on how to respond to questions about ballot issues that possibly could effect the OCC. He stated that they are remaining neutral.

PUBLIC COMMENTS

Elizabeth Franez spoke on the issue of medical marijuana use and stated that the department should be assisting in medical use and not assisting the Feds. She stated that this is a sanctuary city.

Maraika Parker, Bay Area Police Watch, spoke on the issue reported on by Deputy Chief Suhr regarding the Bayview incident. She stated that the people had reported that they were struck with batons.

Mesha Monge-Irizarry, mother of Idriss Stelli, a male subject who was shot by police two years ago, spoke on the issue of what had occurred in the Bayview District. She stated that the officers involved are still patrolling in the area in police car 3XKK034.

Mark Schlosberg, ACLU, asked the Commission to hold a hearing on the issue of what took place in the Bayview District on Monday, August 25th, and the hearing on the MLK incident and on police activity in the Bayview District.

Thereafter, the meeting was adjourned at 6:20 p.m.

Lt. Edward Geeter, #1273

_____

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
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VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT EDWARD OBERA
Secretary

5

3/03
Cancelled

≡ Agenda ≡ Cancelled

CALENDAR OF PROCEEDINGS
POLICE COMMISSION MEETING

There will be no Police Commission meeting on Wednesday, September 3, 2003. The next Police Commission Regular Meeting will be on ***Wednesday, September 10, 2003,*** in Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco.

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AUG 29 2003

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Commissioner

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, SEPTEMBER 10, 2003
5:30 p.m.

/03

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

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SEP 12 2003

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LT. EDWARD GEETER
Secretary

1. Pledge of Allegiance

2. Roll Call

3. Approval of Minutes for the Police Commission Meeting of August 27, 2003 (ACTION ITEM)

4. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)

5. Chief's Announcements and Review of Recent Department Events

6. OCC Director's Report re: Staffing and Budget and Summary of Recent Events

7. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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SAN FRANCISCO POLICE COMMISSION
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For information about MUNI service call 923 6142

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Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

SEPTEMBER 10, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

APPROVAL OF MINUTES FOR THE POLICE COMMISSION MEETING OF AUGUST 27, 2003

Motion by Commissioner Makras to approve the minutes of the Police Commission Meeting of August 27, 2003. Second by Commissioner Chan. Minutes Approved 5-0

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry spoke on the issue of holding a hearing, requested by a citizens group a few weeks ago, regarding the alleged police misconduct that took place during a drug arrest in the Bayview District. Commissioner Perry explained that the Commissioners must sit as judges when MCD or OCC files disciplinary charges against officers. The Commissioners must listen to both sides at the hearing to determine if violations of police policy have occurred. Commissioner Perry stated that it would be improper to hold a hearing before MCD or OCC completes their investigation.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Fagan reported that the Police Department have been working closely with State and Federal agencies due to the anniversary of the 911 incident.

Chief Fagan reported that there was a bomb threat at Moscone Center today. The center was evacuated and searched, no device was found.

Chief Fagan also reported that the City is hosting the 120-Mile Bike Race this weekend.

Captain Denis O'Leary, Risk Management, reported on OCC and MCD cases submitted during the month of August. Seven cases were submitted to the Department by the OCC. Six of those cases are being reviewed by MCD and the other case was forwarded to the Chief's office for disposition. No cases have been dismissed under Government Code 3304 and no cases are within six months of being dismissed under Government Code 3304.

Captain Steve Tacchini, Central Station, described an incident where two citizens on-viewed a subject breaking into a mailbox. They chased and held the subject until the police took custody. It turned out that a federal arrest warrant was issued for this subject, who was wanted for over 100 identity thefts in the area. Captain Tacchini presented Mr. Azzolini, who was present, and Mr. Willey, who was absent, a Chief's Certificate of Appreciation for a job well done.

Captain David Shinn, Tenderloin Station, discussed and updated the Commission on his district's Operation Stay Away Plan and Enhancement Plan. Captain Shinn had briefly discussed the Stay Away Plan during a District Police Commission meeting last month.

Commissioner Friday stated that it has been noted that crime has been

going down in the Tenderloin District due to the work of Captain Shinn, but he wanted to say that something must be done about the drug dealing at Turk and Taylor Streets.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Director Kevin Allen, OCC Director, reported on OCC cases that are within 60 days of the 3304 statute. Thirty-four (34) cases are within 60 days of the statute and his office is working on the cases.

Director Allen also reported that he met with Deputy Chief Pengel regarding police officers at the Airport. Because the Airport is San Mateo County, procedures needed to be discussed so that San Francisco Police won't be held to answer for actions committed by the San Mateo Police Department.

Commissioner Perry asked Director Allen to explain OCC procedures in investigating complaints and filing charges against an officer.

Director Allen explained their procedure of investigation of citizen complaints.

PUBLIC COMMENTS

Ms. Milika Porter, Bay Area Police Watch, spoke on the issue of how the police, in general, police in the Bayview District.

Unidentified stated that transferring officers doesn't solve the problem, that this must end.

Supervisor Daly addressed the Commission regarding complaints received which indicates a structure problem throughout the ranks of the Department. He stated that the Commission should hold some type of hearing to see what needs to be done.

Unidentified, mother of one of the alleged victims, stated that this problem of police coming into the neighborhood doing what they please must stop and stated that she will make sure it stops.

Unidentified spoke on the issue of what occurred in the Bayview District and stated that there are a few bad seeds that should be gotten rid of.

Ms. Sandra Wonnita, Idriss Stelley Foundation, spoke on the issue of police abuse in the Bayview District.

Ms Mesha Irizarry, mother of Idriss Stelley, spoke on the issue of policing in the community. She also stated that they met with Captain Corrales about day laborers, but did not receive any answers. She stated that she wanted to give warning that people are getting upset.

Rida, October 22 Coalition, spoke on the issue of police brutality within the City.

Ms. Backwick spoke on the issue of police brutality.

Commissioner Makras asked Chief Fagan if he had met with the community regarding this issue and if he knows what the problems are.

Chief Fagan stated that he has met with the community two times on this issue along with members of the command staff and OCC investigators. Some things were done immediately like removing license plates that the community thought was KKK but actually was VKK and temporarily transferring officers involved during the investigation.

Mr. Frank Del Campo, Local 790, stated that it was not appropriate for the Commission to make statements that does not address the community's concerns.

Kathleen, Bay Area Police Watch, spoke on the issue of meeting with the Chief of Police to discuss community concerns.

Commissioner Perry stated that those citizens who has concerns about particular issues or officers should contact Captain Puccinelli and attend the monthly meetings to discuss some of their concerns.

Ms. Doris Machen, Machen Foundation, spoke on the issue of the incident in the Bayview District. She also said that the investigation regarding Captain Jackson and Lt. Lankford should be concluded and that the Foundation supports both.

Commissioner Friday asked if it was true that an officer pointed a gun at a seven year old's head?

Ms. Porter, Bay Area Police Watch, stated that information they received from attending community meetings is that officers pulled their guns on the community to force them back and in doing so, pointed a gun at a seven year old boy who was in the crowd.

Thereafter, the meeting was adjourned at 6:35 p.m.

Lt. Edward Ceeter, #1273

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

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Secretary

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, SEPTEMBER 17, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

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1. Pledge of Allegiance

2. Roll Call

3. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)

4. Chief's Announcements and Review of Recent Department Events

5. OCC Director's Report re: Staffing and Budget and Summary of Recent Events

6. Request of the Chief of Police for Approval to Apply for Retroactively, Accept, and Expend Funds from the California Office of Traffic Safety (OTS) to Implement the California Seat Belt Compliance Campaign (ACTION ITEM)

7. Request of the Chief of Police for Approval to Apply for Retroactively, Accept, and Expend Funds from the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives to Implement the Gang Resistance Educations and Training Program (ACTION ITEM)

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, SEPTEMBER 17, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

8. Public Comments

(Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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SEPTEMBER 17, 2003 REGULAR MEETING

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry asked if the Commission was meeting in the district next week. Lieutenant Geeter, Commission Secretary, announced that the Police Commission will hold next week's meeting at Taraval Station.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Fagan reported that he met in Los Angeles with five other Police Chiefs and the Office of Emergency Services to discuss homeland security issues and funds available. Commander Dudley will be taking the lead for the Department.

Chief Fagan also reported on the international Bike Race held in the city this weekend and stated all went well.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, reported that he met with Assistant Chief Fong, Captain O'Leary, and Lt. Carr of MCD to discuss policy issues. He stated that there are approximately 13 policy recommendations that will be forwarded to the Commission.

REQUEST OF THE CHIEF OF POLICE FOR APPROVAL TO APPLY FOR RETROACTIVELY, ACCEPT, AND EXPEND FUNDS FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY (OTS) TO IMPLEMENT THE CALIFORNIA SEAT BELT COMPLIANCE CAMPAIGN

Sergeant David Collins, Grant Unit, addressed the Commission and explained the Department grant request from the California Office of Traffic Safety to implement the California Seatbelt Compliance Campaign.

Commissioner Makras made a motion to approve the grant proposal. Second by Commission Chan. Motion approved 5-0.

RESOLUTION NO. 48-03

APPROVAL OF THE REQUEST OF THE CHIEF OF POLICE TO APPLY FOR RETROACTIVELY, ACCEPT, AND EXPEND FUNDS FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY (OTS) TO IMPLEMENT THE CALIFORNIA SEAT BELT COMPLIANCE CAMPAIGN

RESOLVED, that the Police Commission hereby approves request of the Chief of Police to retroactively apply for, accept, and expend funds from the California Office of Traffic Safety (OTS) to implement the California Seat Belt Compliance Campaign, including any augmentations, extensions, and modifications.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

REQUEST OF THE CHIEF OF POLICE FOR APPROVAL TO APPLY FOR RETROACTIVELY, ACCEPT, AND EXPEND FUNDS FROM THE U.S. BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES TO IMPLEMENT THE GANG RESISTANCE EDUCATIONS AND TRAINING PROGRAM

Sergeant Colleen Fatooh addressed the Commission and explained the grant proposal from the Bureau of Alcohol, Tobacco, Firearms and Explosives.

Commissioner Friday made a motion to approve the grant request. Second by Commissioner Quaranta. Approved 5-0.

RESOLUTION NO. 49-03

APPROVAL OF THE REQUEST OF THE CHIEF OF POLICE TO APPLY FOR RETROACTIVELY, ACCEPT, AND EXPEND FUNDS FROM THE U.S. BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES TO IMPLEMENT THE GANG RESISTANCE EDUCATIONS AND TRAINING PROGRAM

RESOLVED, that the Police Commission hereby approves request of the Chief of Police to retroactively apply for, accept, and expend funds from the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives to implement the Gang Resistance Educations and Training Program, including any augmentations, extensions, and modifications.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

PUBLIC COMMENTS

Ms. Milika Porter, Bay Area Police Watch, addressed the issue of holding a meeting in the Bayview District, not on specific events, but on general policing policy in the Bayview Community.

Mr. Wright spoke on the issue of OCC not having written guidelines as required by law. He stated that the OCC are responsible for investigating officers but yet the OCC is in violation of California Law.

Director Allen, OCC Director, stated that they do have procedures which is about 2,000 pages long and that the office is working on getting it down to be more people friendly.

Mr. David Collins, President of the Downtown Association of San Francisco and the Parking Association of San Francisco, thanked Chief Fagan and the men and women of the Police Department for a job well done.

Thereafter, the meeting was adjourned at 6:10 p.m.

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
San Francisco Police Department

1273/rct

The Police Commission

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, SEPTEMBER 24, 2003
Closed Session 5:00 p.m.
Open Session 6:00 p.m.

Taraval Station Community Room
2345 24th Avenue
San Francisco

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Closed Session (5:00 p.m.)

1. Convene in Open Session: Roll Call

2. Public Comments on all matters pertaining to the Closed Session

3. Closed Session held pursuant to Government Code Section 54957 and San Francisco Administrative Code Section 67.10(b)

   PUBLIC EMPLOYEE PERFORMANCE EVALUATION:
   Chief of Police Alex Fagan (Action Item)

4. Reconvene in Open Session

5. Discussion and vote to elect whether to disclose any or all discussion held in Closed Session (San Francisco Administrative Code Section 67.12(a) (ACTION ITEM)

Open Session (6:00 p.m.)

6. Pledge of Allegiance

7. Approval of Minutes for the Police Commission Meetings of September 10, 2003 and September 17, 2003 (ACTION ITEM)

8. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Officer Michael D. Maxwell, Planning (File No. C03-241 JWA) (ACTION ITEM)

9. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)

10. Chief's Announcements and Review of Recent Department Events (DISCUSSION ONLY)

The Police Commission

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, SEPTEMBER 24, 2003
Closed Session 5:00 p.m.
Open Session 6:00 p.m.

Taraval Station Community Room
2345 24th Avenue
San Francisco

11. OCC Director's Report re: Staffing and Budget and Summary of Recent Events (DISCUSSION ONLY)

12. Captain Keith Sanford, Commanding Officer of Taraval Station, to address the Commission on Police Activities in the Taraval District (DISCUSSION ONLY)

13. Public Comments
(Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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The proceeding will be held at: Taraval Police Station Community Room, 2345 24th Ave.

Accessible MUNI lines serving this location is: "L" Street Car Line; Wayside Platform
For information about MUNI service call 923 6142

The closest BART Station is: n/a

Accessible parking 2345 24th Avenue; Free parking on Santiago along McCoppin Square

For information about the meeting call 553-1667 (v) or 553-9194 (tty)

The Officers of
Taraval Station invite you
to attend a special
meeting of the

SAN FRANCISCO
POLICE COMMISSION

Wednesday, September 24, 2003
Commencing at 6:00 PM

Taraval Station's Community Room
2345 – 24th Avenue
San Francisco, California 94116

This is your chance to address the Commissioners personally regarding neighborhood needs and public safety issues.

For further information, please contact:
Sergeant Rick Galande or Officer Marshall Wong at 553-1612.

Handicapped parking is available on 24th Avenue in front of the Station.

SEPTEMBER 24, 2003 **CLOSED SESSION**

The Police Commission met in the Taraval District, Taraval Station Community Room, 2345 24th Avenue, San Francisco, at 5:00 p.m., in Closed Session.

PRESENT: Commissioners Perry, Makras, Chan, Quaranta
ABSENT: Commissioner Friday

Commissioner Chan made a motion to hold a Closed Session. Second by Commissioner Quaranta. Motion Approved 4-0.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION:
Chief of Police Alex Fagan

SEPTEMBER 24, 2003 **REGULAR MEETING**

The Police Commission met in the Taraval District, Taraval Station Community Room, 2345 24th Avenue, San Francisco, at 6:00 p.m., in a Regular Meeting.

Commissioner Quaranta excused himself.

PRESENT: Commissioners Perry, Makras, Chan,
ABSENT: Commissioners Friday, Quaranta

DISCUSSION AND VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(a)

Commissioner Makras made a motion not to disclose discussion held in Closed Session. Second by Commissioner Chan. Motion Approved 3-0.

APPROVAL OF MINUTES FOR THE POLICE COMMISSION MEETINGS OF SEPTEMBER 10, 2003 AND SEPTEMBER 17, 2003

Commissioner Chan made a motion to approve the Police Commission minutes from the meetings of September 10th and 17, 2003. Second by Commissioner Makras. Minutes Approved 3-0.

RESOLUTION NO. 50-03

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST OFFICER MICHAEL D. MAXWELL, PLANNING (FILE NO. C03-241 JWA)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Officer Michael D. Maxwell, Star No. 856, Planning, was called it having been set for this date; and

WHEREAS, Commissioner Victor Makras is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Michael D. Maxwell; therefore be it

RESOLVED, that Commissioner Victor Makras is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Michael D. Maxwell, and is to be set at a later date.

AYES: Commissioners Perry, Chan, Makras
ABSENT: Commissioner Friday, Quaranta

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry introduced herself as did Commissioners Makras and Chan.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Fagan introduced himself and the members of his command staff: Assistant Chief Fong, Deputy Chiefs Suhr, Bruce, and Pengel, Commanders Brown, Puts and Dudley.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Director Kevin Allen, OCC Director, introduced himself and described the functions of the OCC. He also stated that he attended a National Convention of Police Oversight Units and that the OCC is looked upon as a model for police oversight.

Commissioner Perry introduced Mr. D. J. Canapa from Assemblyman Yee's office. Mr. Canapa congratulated Captain Sanford for the good police work performed in the district. He also presented Certificates of Appreciation to several community action members: Ms. Marry Harris, Mr. & Mrs. Pat and Buffy Maguire, Ms. Minnie Ward and her late husband Louie Ward.

Commissioner Perry also introduced Supervisor Fiona Ma who presented Certificates of Appreciation to members of the department for good police work in solving and arresting a suspect who had committed a crime at Assemblyman Benny Yee's office. Certificated were presented to Jose Guardado, Reginald Scott, Marshall Wong, Lewis Fong, Jerry Lyons, Greg Pak, and Rick Galande. Supervisor Ma also presented Certificates of Appreciation to community workers Mr. & Mrs. Pat and Buffy Maguire, Ms. Mary Harris, and Ms. Minnie Ward.

CAPTAIN KEITH SANFORD, COMMANDING OFFICER OF TARAVAL STATION, TO ADDRESS THE COMMISSION ON POLICE ACTIVITIES IN THE TARAVAL DISTRICT

Captain Keith Sanford addressed the Commission and gave an update on activities occurring within the Taraval Police District.

PUBLIC COMMENTS

Elizabeth Franzie spoke in favor of medical marijuana usage.

Unidentified spoke in support of Captain Sanford for the good community police work in the area of 48th and Judah and the Great Highway.

Ron Duddon spoke in support of Captain Sanford.

Minnie Ward spoke in support of the work done by the Taraval Station TNT Team, Taraval Neighborhood Team.

Paulet Burris, Park Merced resident, spoke in support of the police in the district and asked if more police could be assigned to the Park Merced area. She also invited the Commission and the officers to attend the next community meeting on October 2nd where Captain Sanford will be addressing the community. The meeting will start at 7:00 p.m., at 77 Cameron.

Mary Harris stated that the community wants to congratulate Captain Sanford for his community oriented policing and the TNT program.

Unidentified, a retired school teacher, asked that more officers be assigned to the district.

Thereafter, the meeting was adjourned at 7:30 p.m.

Lt. Edward Geeter, #1273

_____

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
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VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT. EDWARD GEETER
Secretary

5

1/03

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, OCTOBER 1, 2003
Closed Session 5:00 p.m.
Open Session 5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco

DOCUMENTS DEPT.

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09-30-03A10:18 RCVD

Closed Session (5:00 p.m.)

1. Convene in Open Session: Roll Call

2. Public Comments on all matters pertaining to the Closed Session

3. Closed Session held pursuant to Government Code Section 54957 and San Francisco Administrative Code Section 67.10(b)

   PUBLIC EMPLOYEE PERFORMANCE EVALUATION:
   Chief of Police Alex Fagan (Action Item)

Open Session (5:30 p.m.)

4. Reconvene in Open Session; Pledge of Allegiance; Roll Call

5. Discussion and vote to elect whether to disclose any or all discussion held in Closed Session (San Francisco Administrative Code Section 67.12(a) (ACTION ITEM)

6. Approval of Minutes for the Police Commission Meeting of September 24, 2003 (ACTION ITEM)

7. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)

8. Chief's Announcements and Review of Recent Department Events (DISCUSSION ONLY)

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, OCTOBER 1, 2003
Closed Session 5:00 p.m.
Open Session 5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco

9. OCC Director's Report re: Staffing and Budget and Summary of Recent Events (DISCUSSION ONLY)

10. Public Comments
(Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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*There will be Public Comments on any item before or during discussion of each item.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

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SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

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For information about MUNI service call 923 6142

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For information about the meeting call 553 1667(v) or 553 9194 (tty)

OCTOBER 1, 2003 **CLOSED SESSION**

The Police Commission of the City and County of San Francisco met in their chambers, Room 505-2, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:15 p.m.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION:
Chief of Police Alex Fagan

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

OCTOBER 1, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:45 p.m.

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

DISCUSSION AND VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(a))

Commissioner Chan made a motion to disclose the action but not the discussion reached in Closed Session. Second by Commissioner Makras. The motion was approved 5-0.

Commissioner Perry made the following statement:

"The Department has received a complaint from a member of the Department alleging that the Chief and the Assistant Chief violated Department General Orders when they made misrepresentations about the process that resulted in the recent lieutenant promotions. Because this complaint alleges misconduct by the Chief and the Assistant Chief, this Commission is directing the Chief to assign the internal investigation of this complaint to Lieutenant Tabak of the Special Investigations Division and Lt. Tabak to report the results of the investigation directly to this Commission.

The Department's EEO Unit also received a complaint from a member of the Department alleging that the Department discriminated against the member in the course of the recent promotions to the rank of lieutenant. This complaint would normally be investigated by the Department's EEO Unit. To avoid an appearance of impropriety, we are directing the Chief to transmit this complaint to the City's Department of Human Resources for investigation and to request that the Department of Human Resources report its findings to this Commission."

Chief of Police Fagan in response stated that Lt. Tabak would be notified tonight and that the EEO complaint would be transmitted to the Department of Human Resources tomorrow.

APPROVAL OF MINUTES FOR THE POLICE COMMISSION MEETING OF SEPTEMBER 24, 2003

Commissioner Chan made a motion for approval of the Commission meeting of September 24, 2003. The motion was second by Commissioner Quaranta. Approved 5-0.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Taken out of order.

Chief Fagan apologized for the absence of most of his Command Staff. Four members were in Los Angeles on Chief's training and two members were on other assignments.

Chief Fagan reported that he has met with the Director of the FBI to discuss Homeland Security grants. He stated that he believes the City has received $24 million during this first quarter.

Captain O'Leary, Risk Management, reported on the status of disciplinary cases received from the OCC during the month of September. He stated 15 cases received from OCC. No cases dismissed under Government Code 3304. Five (5) cases were not completed within 60 days; however, because OCC had submitted the cases well within 10 months, MCD had time to complete the cases within the one-year time limit.

Commissioners Perry and Makras asked why were the cases not completed within the 60-day time limit? Captain O'Leary stated the main reason was that the previous lieutenant of MCD was on disability for approximately six months and cases began to backlog. However, a new lieutenant has been assigned to MCD and he is beginning to catch up. Captain O'Leary stated that most likely next month's report will be similar to this report and from that point on, things will be better.

Commissioner Friday stated that he had all the confidence in the world that the Captain will solve the backlog problem.

Inspector Robert Steger, Fraud Detail, reported on an ongoing investigation of an elderly abuse real estate fraud case. An 80-year old woman lost the title to her home and $60,000 savings by an insurance agent. The Fraud Unit was able to regain the title and 2/3 of the money returned. The suspect is due for trial next month.

Commissioner Makras excused himself.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, reported on the status of OCC cases. He stated that the OCC has 28 cases that are within the 10-month time limit. They are looking into several ways to speed up the process. One of the ideas is to change the procedure of how cases are assigned once a complaint is received. He stated that he and Captain O'Leary are working on an idea that once the case has been submitted to MCD, after 30 days a warning would indicate that the 60-day time limit is near.

PUBLIC COMMENTS

None

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry introduced recently retired Chief Earl Sanders and presented him, on behalf of the Commission, a plaque. The award was presented as testimonial to his exemplary services and dedication to the Police Department for over 37 years.

Thereafter, the meeting was adjourned.

_____

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, OCTOBER 8, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

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1. Pledge of Allegiance

2. Roll Call

3. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)

4. Chief's Announcements and Review of Recent Department Events

5. OCC Director's Report re: Staffing and Budget and Summary of Recent Events

6. Discussion and Action re: Sale of Patrol Special Beat #96 from Mr. Chris Evans to Assistant Patrol Special Officer Alan Byard (ACTION ITEM)

7. Discussion and Action re: Sale of Patrol Special Beat #72 from Patrol Special Officer Charles Evans to Assistant Patrol Special Officer Hanley Chan (ACTION ITEM)

8. Discussion and Possible Vote pursuant to Department General Order 2.01(8) whether to Place a Discussion Item concerning the Department's Promotional Policy on a future Commission Agenda (ACTION ITEM)

The Police Commission

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, OCTOBER 8, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

9. Public Comments

(Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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OCTOBER 8, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Friday, Quaranta
ABSENT: Commissioner Chan

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry asked when the next District Meeting is scheduled? Lieutenant Geeter, Secretary to the Police Commission, announced that the next meeting is scheduled in the Central District on October 22nd, at the Jean Parker School located at 840 Broadway Street.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Fagan introduced Mr. Rob Hutschemaekers, Commissioner of Police, Netherlands, who is on an eight-week study of North American Police Departments.

Chief Fagan introduced Captain Frank O'Malley, Juvenile Division. Captain O'Malley introduced Sergeant Garrity and Officer Kim Mercer. Sgt. Garrity described the "Internet Crimes Against Children" Program which the Commission, two years prior, had approved a state grant to educate children and parents on internet crimes.

Officer Kim Mercer described the program in detail. She stated the program started in elementary school, 2nd grade to 5th grade, including parents. Middle school, 6th to 9th grades, are also educated on this subject.

Officer Mercer also stated that the SFPD Juvenile Division has the only program that actually go into the schools to educate school children on the issue. Children as young as 2nd graders have been contacted by sexual predators via the internet.

Officer Mercer stated that she has introduced the game "Missing" which introduces middle school children on how sexual predators contact children via the internet and what to look out for. Twenty-five (25) states now use this game to educate children on this subject. Officer Mercer stated she just returned from Washington D.C. where they launched the game on national T.V. Since that viewing, 28 other states will begin the program.

Commander Dudley addressed the Commission reporting on a joint training with Berkeley on homeland security, air, land and terrorist issues. He also reported that 40 officers have been trained as terrorist liaison officers with district station officers.

Commander Puts addressed the Commission regarding the arrest of a robbery suspect who jumped in the rear seat of a vehicle and told the victim to drive. After a few blocks, the female victim noticed that the suspect had past out. She quickly drove to Central Station where the subject was arrested.

Deputy Chief Pengel reported on a joint training exercise held at the airport, a simulated release of chemical agent inside the terminal. She stated the exercise went well and was a good learning experience for all involved. The airport police, fire department, health department, and city agencies participated in the training.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, discussed a new procedure of moving cases through the process to prevent 3304 Government Code issues. He also stated that Friday, October 10th, will be the 20th Anniversary of the OCC and they will have a celebration at noon.

DISCUSSION AND ACTION RE: SALE OF PATROL SPECIAL BEAT #96 FROM MR. CHRIS EVANS TO ASSISTANT PATROL SPECIAL OFFICER ALAN BYARD

Sergeant Tom Martin, Patrol Special liaison officer, addressed the Commission and informed them that the requests by Patrol Special Officers Byard and Chan to purchase beats #96 and 72 have been reviewed by Captain Cashman, the Department's Legal Division, and the City Attorney's Office. He stated that both Patrol Special Officers met the standards and recommended that the purchase requests be approved.

Commissioner Makras made a motion to approve the request by Assistant Patrol Special Officer Alan Byard to purchase Beat #96. Motion was second by Commissioner Quaranta. Approved 4-0.

RESOLUTION NO. 51-03

APPROVAL OF TRANSFER OF BEAT #96 FROM MR. CHRIS EVANS TO ASSISTANT PATROL SPECIAL OFFICER ALAN BYARD

RESOLVED, that the Police Commission hereby approves transfer of Patrol Beat No. 96 from Mr. Chris Evans to Assistant Patrol Special Officer Alan Byard.

AYES: Commissioners Perry, Makras, Friday, Quaranta
ABSENT: Commissioner Chan

DISCUSSION AND ACTION RE: SALE OF PATROL SPECIAL BEAT #72 FROM PATROL SPECIAL OFFICER CHARLES EVANS TO ASSISTANT PATROL SPECIAL OFFICER HANLEY CHAN

Commissioner Makras made a motion to approve the request by Assistant Patrol Special Officer Hanley Chan to purchase Beat #72. The motion was second by Commissioner Quaranta. Approved 4-0.

RESOLUTION NO. 52-03

APPROVAL OF TRANSFER OF BEAT #72 FROM PATROL SPECIAL OFFICER CHARLES EVANS TO ASSISTANT PATROL SPECIAL OFFICER HANLEY CHAN

RESOLVED, that the Police Commission hereby approves transfer of Patrol Beat No. 72 from Patrol Special Officer Charles Evans to Assistant Patrol Special Officer Hanley Chan.

AYES: Commissioners Perry, Makras, Friday, Quaranta
ABSENT: Commissioner Chan

DISCUSSION AND POSSIBLE VOTE PURSUANT TO DEPARTMENT GENERAL ORDER 2.01(8) WHETHER TO PLACE A DISCUSSION ITEM CONCERNING THE DEPARTMENT'S PROMOTIONAL POLICY ON A FUTURE COMMISSION AGENDA

Deputy City Attorney Mariam Morley addressed the Commission and explained the Commission's responsibility under General Order 2.01(8), which states as follows:

"Whenever ten or more members want a hearing on a matter affecting the Department, they must submit a signed petition to the Chief describing their concerns and any recommendation they wish to make. The Chief shall note the petition and send it with any comments to the Police Commission for consideration. The Commission shall set the matter for hearing within 30 days. If the Commission declines to hear the matter, the members submitting the petition shall be advised of the reasons, in writing, within the same 30-day period.

Chief Fagan made a stated addressing each points the petition was questioning. Chief Fagan stated:

"I'll read some bullet points and, as you may or may not know, the rule does qualify. You have copies of the documents I'll be discussing.

A petition was submitted to me under Department General Order 2.01, Rule 8, seeking a hearing before the Police Commission concerning the STEP Q-60 Training Program that began on September 29, 2003 and its relationship to the upcoming Q-60 Lieutenants examination.

The petition is dated prior to my bulletins of September 25th and September 26th that you have. These bulletins addressed the questions and concerns raised in the petition. I have not yet set the date for the upcoming Q-60 examination, but my September 25th bulletin notified all members that the Q-60 examination will be held sometime after September 15, 2004 and that no examination points will be awarded for the completion of the STEP Q-60 Training Program.

The STEP Training Program is a continuing education program and not a test preparation course. Topics included in the STEP Training Program are those reflective of the duties and responsibilities of the designated rank. In this offering, the duties and responsibilities of a Q-60 Lieutenant. As the STEP Training Program is not a test preparation course, there is no direct relationship between the contents of the STEP Training Program and the examination. Regardless of the rank or time in grade, the STEP Training Program is excellent training and is suitable for all members who are interested in the role and the responsibilities of a Q-60 Lieutenant.

Specific rank or time in grade is not a criteria for the enrollment in the STEP Training Program. Members who took the Q-60 STEP Training Program in 1999 and are considering whether to take the course currently being offered should be made aware that the current program has 11 additional blocks of instruction. It reflects the most up-to-date information available on all the subjects included in the training program.

Petition reflects some confusion about the role of the STEP Training Program instructors. The instructors are selected by the Training Division and have been chosen on the basis of their specific expertise, their experience, and their capability at training police officers.

Subject matter experts serve a different purpose. They assist with the development of promotional examinations. Subject matter experts are prohibited from discussing their work on the examination outside the Examination Unit and are not allowed to participate as instructors in the STEP Training Program or any other test preparation or study program group.

Members serving as STEP Training Program instructors for certain

rank cannot serve as subject matter experts on the examination for that same rank and vice versa.

The members designated as subject matter experts for the upcoming Q-60 examination are listed in my bulletin of September 26th.

The Department, in conclusion – in consultation with the Department of Human Resources has began the process of developing the upcoming Q-60 examination. I understand that many members of the department are anxious to receive the information about the examination as soon as possible. As I stated in my bulletin of September 25th, I will issue future bulletins containing information relevant to the examination as that information becomes available."

PUBLIC COMMENTS re: Promotional Policy

Sergeant Schiff addressed the Commission and requested the Commission to set a date for the officers who signed the petition to come and address the Commission of their concerns. He stated that the 79 officers who signed the petition need to be able to address their concerns.

Sergeant Gillespie addressed the Commission and asked the Department to answer several questions she had submitted in a memorandum regarding the selection process of the current lieutenant's promotions.

Commissioner Friday made a motion to continue this matter in one week. Second by Commissioner Quaranta. Approved 4-0.

PUBLIC COMMENTS

Sergeant Schiff addressed the Commission and explained that the petition for the Commission to hear officers' concerns was just that and not related to a lawsuit filed against the Department on the lieutenant's promotional process.

Thereafter, the meeting was adjourned at 6:15 p.m.

Lt. Edward Geeter, #1273

_____

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, OCTOBER 15, 2003
Closed Session 5:00 p.m.
Open Session 5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco

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Closed Session (5:00 p.m.)

1. Convene in Open Session: Roll Call

2. Public Comments on all matters pertaining to the Closed Session

3. Closed Session held pursuant to Government Code Section 54957 and San Francisco Administrative Code Section 67.10(b)

   PUBLIC EMPLOYEE PERFORMANCE EVALUATION:
   Chief of Police Alex Fagan (Action Item)

Open Session (5:30 p.m.)

4. Reconvene in Open Session; Pledge of Allegiance; Roll Call

5. Discussion and vote to elect whether to disclose any or all discussion held in Closed Session (San Francisco Administrative Code Section 67.12(a) (ACTION ITEM)

6. Approval of Minutes for the Police Commission Meeting of October 1, 2003 and October 8, 2003 (ACTION ITEM)

7. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)

8. Chief's Announcements and Review of Recent Department Events (DISCUSSION ONLY)

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, OCTOBER 15, 2003
Closed Session 5:00 p.m.
Open Session 5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco

9. OCC Director's Report re: Staffing and Budget and Summary of Recent Events (DISCUSSION ONLY)

10. Discussion and Possible Vote pursuant to Department General Order 2.01(8) whether to Place a Discussion Item concerning the Department's Promotional Policy on a future Commission Agenda (ACTION ITEM)

11. Public Comments
(Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

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OCTOBER 15, 2003 **CLOSED SESSION**

The Police Commission of the City and County of San Francisco met in their chambers, Room 505-2, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:05 p.m., in Closed Session.

PRESENT: Commissioners Perry, Makras, Chan, Friday
ABSENT: Commissioner Quaranta

PUBLIC EMPLOYEE PERFORMANCE EVALUATION:
Chief of Police Alex Fagan

OCTOBER 15, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:55 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Friday
ABSENT: Commissioner Quaranta

DISCUSSION AND VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(a))

Commissioner Chan made a motion to disclosed the action taken during Closed Session. Second by Commissioner Makras. Motion approved 4-0.

Commissioner Perry made the following statement:

"The Commission received an update today by Lt. Morris Tabak regarding the complaint against Chief Fagan by Sergeant Schiff, so that is what took place in this Closed Session."

APPROVAL OF MINUTES FOR THE POLICE COMMISSION MEETING OF OCTOBER 1, 2003 AND OCTOBER 8, 2003

Commissioner Friday made a motion to approve the minutes of the Police Commission meetings of October 1, 2003 and October 8, 2003. Second by Commissioner Chan. Minutes approved 4-0.

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry asked when is the next District Commission meeting. Lieutenant Edward Geeter, Secretary to the Police Commission, announced that next week's Commission meeting will be held in the Central District at Jean Parker Elementary School, 840 Broadway.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Commissioner Perry asked to table this item until the end of the agenda.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, stated that a new procedure on accepting citizens complaints is being used and once completed, OCC should be able to send completed case to the Police Department at a more expedited time because both his office and the Police Department are concerned with the

Government Code 3304 issues, which is the number one priority.

DISCUSSION AND POSSIBLE VOTE PURSUANT TO DEPARTMENT GENERAL ORDER 2.01(8) WHETHER TO PLACE A DISCUSSION ITEM CONCERNING THE DEPARTMENT'S PROMOTIONAL POLICY ON A FUTURE COMMISSION AGENDA

Commissioner Friday made a motion not to place on the Commission agenda an item concerning the Department's promotional policy under General Order 2.01(8). Second by Commissioner Chan.

Commissioner Perry stated that she supports the motion of not holding a hearing because, after the Commission meeting last week, the Chief responded to the petition. All the items requested by the petitioners have been answered by the Chief's report, and she sees no reason to have a hearing at this time. The motion was approved 4-0.

Commissioner Perry, thereafter, made the following statement:

"The Commission has determined that the issues raised by the petition have been answered by the Chief and there is no reason to have hearing at this time."

Commissioner Perry then asked Deputy City Attorney Mariam Morley to send a letter to the petitioners explaining the rules.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Fagan introduced Captain T. Hcttrich from the Narcotics Division. Captain Hettrich spoke on two recent narcotic investigations and arrests. Today, two narcotics investigating officers received information that narcotics was to be delivered in the Western Addition. Surveillance follow up and two search warrants were obtained. One for a resident in the city and another for a resident in Richmond, California. The search warrants produced 10 ounces of heroin and $22,000 in U.S. currency from a burnt down resident in Richmond. In San Francisco, they recovered cocaine and heroin in a flashlight carried by the arrested subject. Captain Hettrich stated that his officers are seeing drug dealers coming from other cities to sell their drugs in our City. Captain Hettrich then introduced narcotics officer Lou Barberini to speak on a narcotic case in the Tenderloin District.

Officer Barberini reported on the investigation and arrest of a female drug dealer in the Tenderloin District. This suspect, who lived in the Ingleside District, would drive to the Tenderloin, hide her drugs at Bush and Taylor Streets, drive to the Tenderloin and sell her drugs. Upon her arrest, officers recovered 79 bindles of cocaine and over $38,000 in cash.

Captain Chignell, Investigations, spoke on the issue of Department Transfer policy. He stated that for the past 25 years the Department had a very ridged transfer policy based strictly on seniority. The Department have come to the conclusion that some changes must be made. So, under the leadership of Chief Fagan, Deputy Chief Bruce, Captain Ashe, and himself, have had meet and confer session with the POA on the transfcr policy. The results of these meetings are for inspectors to be assigned to the Homicide Unit, as follows:

1. Specific training components must be completed before being assigned to the Homicide Unit.

2. There will be an interview panel of senior management personnel to interviciw the top five candidates for the unit.

3. An assessment of the inspector's previous performance.

It is the hope that this will be the prototype for other changes the department is working on.

PUBLIC COMMENTS

Ms. Malaika Parker, Bay Area Police Watch, spoke regarding the incident which occurred at Thurgood Marshall School where alleged police misconduct took place. She asked for a public hearing in regards to this matter.

Ms. Mesha Irizarry, Idriss Stelly Foundation, spoke regarding the Thurgood Marshall School incident and asked for a meeting on this issue.

Mark Schlosberg, ACLU, spoke regarding the Thurgood Marshall School incident and asked for a public hearing on the incident.

Sue Maliky spoke on the issue of Thurgood Marshall School.

Sandra Cooper, Idriss Stelly Foundation, spoke regarding the Thurgood Marshall School incident and asked for a public hearing.

H. Byress, Youth Commission, spoke on the issue of police brutality.

Jessie Fernandez, Book not Bars, spoke regarding police brutality that allegedly occurred at Thurgood Marshall School last year.

Mr. Ho, Ella Baker Center, spoke regarding alleged police brutality.

Shannon, Bay Area Police Watch, asked for a community meeting regarding the Thurgood Marshall School incident.

Ms. Lee, a teacher in the SF Unified School District, asked that a hearing be held on this issue.

Ms. Kim Marcus, former teacher at Thurgood Marshall School, asked the Commission to give answers to the question of what happened.

A former student of Thurgood Marshall School spoke on the issue of police brutality.

Joe Rue, a teacher at Thurgood Marshall School, spoke on the issue of police brutality.

Heidi spoke on the issue of police corruption and police brutality.

Unidentified, Ingleside resident, commended Captain Dillon of Ingleside Station and the officers assigned for a job well done.

Commissioner Friday stated that he recognize that public comment is a time in this meeting set aside for just that and it's not for dialogue but he wanted to say and to tell the people that, although some have pointed out that the Commission just sits here and don't react, he wanted to point out that it's absorbed and that some of the officers talked about are being investigated by the OCC and that everyone has due process.

Thereafter, the meeting was adjourned at 6:50 p.m.

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT. EDWARD GEETER
Secretary

2/03

SAN FRANCISCO POLICE COMMISSION AGENDA
REGULAR MEETING
WEDNESDAY, OCTOBER 22, 2003
6:00 p.m.

CENTRAL DISTRICT
JEAN PARKER SCHOOL
840 Broadway Street
San Francisco

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1. Pledge of Allegiance
2. Roll Call
3. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)
4. Chief's Announcements and Review of Recent Department Events
5. OCC Director's Report re: Staffing, Budget and Summary of Recent Events
6. Captain Steve Tacchini, Commanding Officer of Central Station, to address the Commission on Police Activities in the Central District
7. Public Comments
   (Members of the public may address the Commission for up to 3 minutes for individuals or up to 5 minutes for groups. The President of the Commission may limit the total testimony time.)

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**There will be Public Comments on any item before or during discussion of each item.*

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The Officers of Central Police Station would like to invite you to the monthly meeting of the,

San Francisco Police Commission

6:00 PM

Wednesday October 22, 2003.

Jean Parker School

840 Broadway Street

For further information contact Officer Phillip Welsh @ 315-2424

PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

merican sign language interpreters will be available upon request. Please contact
t. Michael Sullivan, at 553 1343, at least 72 hours prior to a proceeding.
ate requests will be honored if possible.

A sound enhancement system will be available upon request at the proceeding. Please contact Sgt. Michael Sullivan, at 553 1343 at least 72 hours prior to a proceeding.
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e proceeding will be held at Jean Parker Elementary School, 840 Broadway, San Francisco
e closest accessible BART _____.
ccessible MUNI lines serving this location are #12 Muni and #83 Pacific
#30X (not accessible)

For information about MUNI service call 923 6142.

Accessible parking is available at the following location: _____

Accessible seating for persons with disabilities and wheelchairs will be available.

- For information about the meeting call 553-1667 Voice, or 553 9194 TDD.
San Francisco Police Department

OCTOBER 22, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in the Central District at the Jean Parker Elementary School, 840 Broadway Street, San Francisco, at 6:15 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan
ABSENT: Commissioner Friday, Quaranta

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry introduced herself, as did Commissioners Makras and Chan.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Assistant Chief Heather Fong introduced herself and reported that Chief Fagan was out of state attending a Police Chief convention in Philadelphia. She then introduced the members of the command staff: Deputy Chiefs Pengel, Suhr, and Robinson; Commanders Hom, Harper, and Brown.

Commissioner Perry introduced Supervisor Peskin. Supervisor Peskin welcomed the Commissioners to his district, District 3. He stated that he feels lucky for being in such a good district and working with Chief Fong who was once the Captain of the district, Captain Goldberg, Captain Dudley, now Commander Dudley, Captain Dillon, and now Captain Tacchini. He stated that the men and women of Central Station have done a very good job for the citizens in District 3. He also wanted to salute Officer Tom Costello who twice had to fight off suspects with knives and stated that in one incident he assisted Officer Costello.

OCC DIRECTOR'S REPORT RE: STAFFING, BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, introduced himself and stated that he was pleased to be in the district and was looking forward to Captain Tacchini's report.

CAPTAIN STEVE TACCHINI, COMMANDING OFFICER OF CENTRAL STATION, TO ADDRESS THE COMMISSION ON POLICE ACTIVITIES IN THE CENTRAL DISTRICT

Captain Tacchini reported on police activities in the Central Police District. He also presented a Chief's Certificate of Appreciation to Mr. John Cercos for assisting Officer Costello who was assaulted by a person armed with a knife.

PUBLIC COMMENTS

None.

Thereafter, the meeting was adjourned at 6:35 p.m.

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

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Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT EDWARD GEETER
Secretary

5

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CALENDAR OF PROCEEDINGS
POLICE COMMISSION MEETING

There will be no Police Commission meeting on Wednesday, October 29, 2003. The next Police Commission Regular Meeting will be on ***Wednesday, November 5, 2003***, at 5:30 p.m., Thomas J. Cahill Hall of Justice, 850 Bryant Street, Room 551, San Francisco.

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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, NOVEMBER 5, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

1/03

1. Pledge of Allegiance
2. Roll Call
3. Approval of Minutes for the Meetings of October 15, 2003 and October 22, 2003 (ACTION ITEM)
4. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Officer Steven Redd, Support Services, (File No. C03-262 JWA) (ACTION ITEM)
5. Police Commission Announcements
   a. Motion of Calendaring of New Items
6. Chief's Announcements and Review of Recent Department Events
7. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
8. Discussion and Action re: Revised General Order 10.04, "800 MHz Portable Radios" (ACTION ITEM)
9. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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NOVEMBER 5, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:35 p.m.

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

APPROVAL OF MINUTES FOR THE MEETINGS OF OCTOBER 15, 2003 AND OCTOBER 22, 2003

Commissioner Chan made a motion to approve the minutes for the meetings of October 15, 2003 and October 22, 2003. Second by Commissioner Friday. Minutes approved 5-0.

RESOLUTION NO. 53-03

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST OFFICER STEVEN REDD, SUPPORT SERVICES (FILE NO. C03-262 JWA)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Officer Steven Redd, Star No. 1730, Support Services, was called it having been set for this date; and

WHEREAS, Commissioner Sidney Chan is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Steven Redd; therefore be it

RESOLVED, that Commissioner Sidney Chan is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Seven Redd, and is to be set at a later date.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry asked when the next District meeting is scheduled. Lieutenant Geeter, Secretary to the Police Commission, informed the Commission that the next district meeting is scheduled for November 19th at Northern Police Station, 1125 Fillmore Street.

Commissioner Perry announced that the Commission will not meet on November 26th, the day before Thanksgiving.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Fagan reported and apologized for the absence of some members of the command staff. He stated that they are away attending training. Chief Fagan stated that the new website should be up and running this month. He also stated that the Human Right Commission will be giving a presentation on November 12th regarding Transgender Training.

Chief Fagan thanked the Command Staff and Deputy Chief Suhr for a job well done in planning and policing the Halloween celebration in the Castro area.

Deputy Chief Suhr reported that this year's Halloween celebration was a big success. He stated the coordination between City Hall, the community,

and others made it a success. This was the first year where no alcohol was permitted. Last year there were over 100 arrests made. This year only 22 arrests were made.

Captain O'Leary, Risk Management, reported that the Department have received eight complaints from OCC and that the Department had to dismiss two under Government Code 3304. The Police Department failed to file charges within the one year time limit.

Responding to questions from the Commission as to the reasons for the dismissals, Captain O'Leary stated that the files had been misplaced and just recently located. He stated that the Department and the OCC are meeting to find ways of preventing these situations and that the MCD Unit are getting their records and files under control.

Chief Fagan stated that the case filed from March of this year are being tracked. However, the problem are with the cases prior to March. The Department and the OCC are working together to get the problem under control.

Commissioner Makras asked what communication is taking place with the public who have filed the complaints. Captain O'Leary stated that because those two cases were not filed with the Commission, they are considered as a personnel matter and the department's policy do not allow the discussion of personnel matter. So, the complainant is not notified by the Department but rather by OCC.

Mr. Kevin Allen, OCC Director, stated that the only information they are allowed to tell a complainant is that the case has been sustained and forwarded to the Police Chief and that, because this is a personnel matter, more information cannot be released.

Commissioner Perry asked the Chief and the City Attorney to review the matter and report to the Commission next week regarding the law and regulations in respect to the law in notifying the complainants.

Commissioner Makras stated that it is not the public's obligation to try and understand our rules. It is our obligation to process the complaint properly and help them get to conclusion on it. Sometimes it's bad news, sometimes if good news, but just shutting down shop and just saying no one has the authority defies all logic.

Deputy City Attorney Mariam Morley stated that she will report to the Commission next week regarding this matter.

Commissioner Perry asked Lieutenant Geeter, Secretary to the Commission, to place the issue on the Commission calendar for next week.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, reported on all cases that OCC has and where they stood in relation to the 3304 statute. The OCC has 34 cases that are within the nine-month reporting period. His office are working on plans that will identify all cases at three months, six months, and nine months intervals and he hopes to have most of the cases completed within six months.

Commissioner Chan asked Director Allen to explain a few cases that appears to be over the one-year statute. Director Allen stated that if the Commissioner knows which cases he was requesting, he would research and get back to him.

DISCUSSION AND ACTION RE: REVISED GENERAL ORDER 10.04, "800 MHz PORTABLE RADIOS"

Sergeant Greg Yee addressed the Commission explaining the changes to General Order 10.04 and the reasons for the changes. He stated that General Order 10.04, prior to the recommended changes, dealt with the PIC radios. Most members are now issued the newer 800 Mhz Portable Radios. The proposed changes to the general order address these changes.

Commissioner Perry pointed out a typing error. Sergeant Yee stated that it would be corrected.

Commissioner Makras made a motion to approve the changes. Second by Commissioner Chan. Approved 5-0.

RESOLUTION NO. 54-03

APPROVAL OF REVISED GENERAL ORDER 10.04, "800 MHz PORTABLE RADIOS"

RESOLVED, that the Police Commission hereby adopts revised General Order 10.04, "800 MHz Portable Radios.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

PUBLIC COMMENTS

Malaika Porter, Bay Area Police Watch, spoke on the issue of the statute of limitations in regards to disciplinary charges being dismissed under Government Code 3304.

Shannon, Bay Area Police Watch, spoke on the case of Sheila Detoy which the Commission will soon rule on regarding Government Code 3304.

Thereafter, the meeting was adjourned at 6:30 p.m.

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

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ANGELO QUARANTA
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, NOVEMBER 12, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

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1. Pledge of Allegiance
2. Roll Call.
3. Police Commission Announcements.
   a. Motion of Calendaring of New Items. (ACTION ITEM)
4. Chief's Announcements and Review of Recent Department Events.
5. OCC Director's Report re: Staffing and Budget and Summary of Recent Events.
6. Discussion and possible action to approve a procedure for notifying complainants of the disposition of their complaints, including dismissal for failure to issue timely notification of the proposed disciplinary action. (ACTION ITEM)
7. Discussion of the SFPD/Transgender Community Task Force Report recommendations, and possible action to approve new Department bulletins on interaction with transgender communities. (ACTION ITEM)
8. Request of the Chief of Police for Approval to Apply for Retroactively, Accept, and Expend Funds from the California Office of Traffic Safety (OTS) to implement the "You Drink and Drive, You Lose" Program (ACTION ITEM)
9. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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*There will be Public Comments on any item before or during discussion of each item.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

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SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

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The proceeding will be held at the Hall of Justice, 850 Bryant Street, 5th floor Police Commission Hearing Room. The closest accessible BART station is 5th and Mission Streets. Accessible MUNI lines serving this location are 42 and 9X San Bruno Express.

For information about MUNI service call 923 6142

Accessible parking is available in front of the Hall of Justice, 850 Bryant Street.

Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

NOVEMBER 12, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry introduced former Police Commissioner and now City Attorney Dennis Herrera, who was attending the meeting.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Fagan waived his report and asked if Agenda Item #7 could be taken out of order. He then introduced SFPD Sergeant Stephan Thorne.

DISCUSSION OF THE SFPD/TRANSGENDER COMMUNITY TASK FORCE REPORT RECOMMENDATIONS, AND POSSIBLE ACTION TO APPROVE NEW DEPARTMENT BULLETINS ON INTERACTION WITH TRANSGENDER COMMUNITIES

Taken out of order.

Sergeant Stephan Thorne addressed the Commission speaking on the issues of the SFPD/Transgender Community Task Force. The Task Force had submitted 15 recommendations on standards for interacting with the transgender community. Three department bulletins were submitted on the issue and the Commission was asked for approval.

City Attorney Dennis Herrera addressed the Commission speaking in support of the task force's recommendations.

Ms. Theresa Sparks, Human Rights Commission and task force member, asked the Commission to approve the task force's recommended department bulletins.

Mr. Marcus Arana, Investigator for the Human Rights Commission, spoke in favor of the Transgender Task Force's recommendations.

Ms. Jennifer Rakowski, Director of Community United Against Violence and a Task Force member, spoke in favor of the recommended department bulletins.

Mr. Chris Daly spoke in favor of the recommended bulletins submitted by the transgender community.

Mr. Carlos Serrano spoke in favor of the recommended department bulletins and asked that everyone work together.

Commissioner Perry asked Chief of Police Fagan when will the general orders on transgender interaction be prepared to replace the department bulletins.

Chief Fagan stated that he will have an update report to the Commission on December 3rd.

Commissioner Friday made a motion to approve the new department bulletins on Interaction with Transgender Community. Second by Commissioner Makras. Motion approved 5-0.

Ms. Tatiana Kaneholani, transgender health educator, spoke in favor of the task force's recommendations.

RESOLUTION NO. 56-03

APPROVAL OF THREE NEW DEPARTMENT BULLETINS ON INTERACTION WITH TRANSGENDER COMMUNITIES

WHEREAS, in response to San Francisco Police Commission Resolution No. 55-01, the SFPD/Transgender Community Task Force first convened on January 28, 2002, and was comprised of Police Force personnel, community organizations, the San Francisco Human Rights Commission, and transgender community members. Three members from the Task Force, representing the SFPD, the San Francisco Human Right Commission, and community-based organizations, formed the core of the working group which was responsible for the drafting, editing, and revising of the report, protocols, and training materials. After creating the documents, the work group submitted them to the Task Force for approval. Before the Task Force submitted the documents to the Police Commission, the drafts were circulated for input from transgender communities; and

WHEREAS, it is the recommendation of the SFPD/Transgender Community Task Force that the Police Commission approve three new Department Bulletins on Interaction with Transgender Communities; therefore be it

RESOLVED, that the Police Commission hereby approves three new Department Bulletins on Interaction with Transgender Communities, which states:

First Department Bulletin

"

DEPARTMENT BULLETIN
STANDARDS FOR INTERACTION WITH
TRANSGENDER COMMUNITIES

In the course of their duties, San Francisco police personnel interact with a wide and very divers group of residents, merchants, and visitors. Some of these include members of various transgender communities. This bulletin is the first in a series intended to clarify policy matters and procedural questions that may arise when San Francisco police personnel have contact with transgender individuals.

Name Usage and Forms of Address

- It is the policy of this department that members are to address transgender individuals in a way that is appropriate to their gender identity. Gender identity is determined by an individual's self-identification.

- Members shall address transgender individuals with names, titles, pronouns, and other terms appropriate to their gender identity, and should address transgender individuals by their chosen names, whether or not the individual has previously had a different name or gender designation. In addressing or discussing transgender individuals, members should use pronouns appropriate for the chose name (e.g., "she", "her", "hers" for a male-to-female transgender individual named Jane; and "he", "him", "his" for a female-to-male transgender individual named John). If members are uncertain which pronouns are appropriate, members should respectfully ask the individual for clarification (e.g., "Do you prefer to be referred to as 'she' or 'he'?").

- All members shall use respectful language and behavior when engaged in their duties with transgender individuals.

- Members shall not make assumptions about an individual's sexual

orientation based upon an individual's gender expression or identity."

Second Department Bulletin

" DEPARTMENT BULLETIN
STANDARDS FOR INTERACTION WITH THE
TRANSGENDER COMMUNITIES

This bulletin is the second in a series intended to clarify policy matters and procedural questions that may arise when San Francisco police personnel have contact with transgender individuals.

Investigative Stops and Searches of Persons by Police

- During investigative stops or detentions, members shall treat a transgender individual in a manner appropriate to the individual's gender presentation. Members shall address transgender individuals by their chosen, preferred, and/or gender appropriate names, and shall use pronouns appropriate to the gender asserted and/or expressed.

- Except when legally necessary, (e.g., citing an arrestee), members shall not require proof of an individual's gender and shall not challenge an individual's gender identity. During a detention or an arrest, searches shall not to be used for the purpose of determining the gender of the detainee. Members shall not ask questions about intimate details of a person's anatomy or conduct searches to determine an individual's gender without legitimate and articulable reasons for doing so.

- In accordance with Department General Order 5.03, a member shall not detain an individual based solely upon the member's perception that the individual is transgender.

- Calls for service or complaints generated by transgender individuals shall be addressed or investigated in the same manner as requests for service or complaints made by any other person. A member shall not fail to respond to a complaint or call for help on the basis of the caller's or complainant's transgender status, and a member shall not commence an investigation of a complainant or caller simply because the complainant or caller appears to be a transgender individual."

Third Department Bulletin

" DEPARTMENT BULLETIN
STANDARDS FOR INTERACTION WITH
TRANSGENDER COMMUNITIES

This bulletin is the third in a series intended to clarify policy matters and procedural questions that may arise when San Francisco police personnel have contact with transgender individuals.

Transgender Arrestees

Detention and Arrest

- As discussed in Department Bulletin No. ___, officers shall not conduct searches of transgender arrestees or detainees, or arrestees or detainees of indeterminate gender, to determine an arrestee's or detainee's gender.

- If a transgender individual in SFPD custody requests use of the men's bathroom, the detainee shall be escorted by a male officer. If the individual requests use of the women's bathroom, the detainee shall be escorted by a female officer.

- If an arrestee in SFPD custody identifies himself or herself as transgender, or if an arrestee appears to the member to be transgender, the arrestee shall not be detained in holding cell at any district station. Officers shall arrange transportation of such arrestees to the appropriate detention facility as soon as possible.

Transportation

- Transgender detainees, or detainees whose gender is undetermined, are to be transported according to the provisions regarding transporting female detainees, as specified in General Order 2.01, Rule 36, TRANSPORTING OF FEMALES. Therefore, immediately prior to transporting any transgender/transsexual person or individual whose gender identity is indeterminate, in a department vehicle, whether due to detention, arrest, or any other reason, an officer shall notify ECD with the vehicle's starting mileage, the location from which he/she is leaving, and the destination. Upon arrival at the destination, the member shall immediately notify ECD and provide the vehicle's ending mileage. ECD shall broadcast the starting and ending times as an appropriate response confirming the officer's broadcasts.

Booking

- If, in the booking process, an arrestee does not offer self-identification of gender, and does not respond to the member's inquiry as to the individual's gender identity, Jail Health Services staff shall make the gender determination.

- For booking or citation purposes, a member shall always use an individual's name as it appears on a driver's license or state identification card. If the arrestee identifies himself or herself using a different name, the member shall list that name in the appropriate section of the citation or booking form. Whether or not the name on an individual's driver's license or identification card coincides with the arrestee's gender identity, the member shall refer to the arrestee by the name that the arrestee has used to identify him or herself. The member shall use the pronouns consistent wit that name in addressing the arrestee or referring to the arrestee.

- For purposes of listing gender on citations, police reports and other official documentation, members shall use the gender designation listed in the most recent records in the official criminal justice databases, starting with the DMV record."

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, thanked the Task Force and the Commission on behalf of former OCC Director Mary Dunlap and OCC employees for discussing and taking action on this issue, which was introduced to the Commission by former OCC Director Mary Dunlap.

Director Allen spoke on the issue of notifying citizens regarding the results of their complaints. This question was asked at last week's Commission meeting. Director Allen stated that during a meeting between himself, Assistant Chief Fong, Captain O'Leary, Lieutenant Carr, and City Attorney a solution has been reached with Captain O'Leary will discuss when item #6 on the agenda is called.

DISCUSSION AND POSSIBLE ACTION TO APPROVE A PROCEDURE FOR NOTIFYING COMPLAINANTS OF THE DISPOSITION OF THEIR COMPLAINTS, INCLUDING DISMISSAL FOR FAILURE TO ISSUE TIMELY NOTIFICATION OF THE PROPOSED DISCIPLINARY ACTION

Captain O'Leary, Risk Management, reported that State law requires the complaining party to be notified within 30 days after the disposition of a disciplinary case. He stated that a procedure has been devised that will address the issue. He has drafted a letter, the language of which will address each complaint. He will seek input from the OCC and the City Attorney's office before he submits the letter to the command staff for approval.

Captain O'Leary also reported that he made an analysis of how the MCD tracked OCC complaints and found problems, one of which he corrected today. The other required the assistance of the Planning Division which must seek assistance outside the Department. He stated he is looking forward to reporting back to the Commission on the progress as things move forward.

Commissioner Friday asked why the phrase "permitted to give and may be required to give" was written as such on a memo received relating to notifications to a complainant as to the disposition of their complaint.

City Attorney Mariam Morley stated that the law requires that a complaining party be notified a to the outcome of their complaint but it's not clear if it is mandatory when a case is dismissed under Government Code 3304. The City Attorney's office has asked for legislation history and after they receive that, she would be able to inform the Commission if it is mandatory to notify a complainant if their complaint was dismissed under Government Code 3304.

Commissioner Perry asked could the Commission make it mandatory that complainants be notified when a complaint is dismissed under Government Code 3304. City Attorney Morley answered absolutely.

Commissioner Makras made a motion that it becomes the policy of the SFPD to notify individuals of the disposition of their complaints when it's concluded and that the staff work among themselves to draft the document to that. Second by Commissioner Friday. Approved 5-0.

RESOLUTION NO. 55-03

APPROVAL OF PROCEDURE FOR NOTIFYING COMPLAINANTS OF THE DISPOSITION OF THEIR COMPLAINTS, INCLUDING DISMISSAL FOR FAILURE TO ISSUE TIMELY NOTIFICATION OF THE PROPOSED DISCIPLINARY ACTION

RESOLVED, that the Police Commission approves the policy requiring the Police Department and/or the Office of Citizen Complaints to notify individuals of the disposition of their complaint upon conclusion.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

REQUEST OF THE CHIEF OF POLICE FOR APPROVAL TO APPLY FOR RETROACTIVELY, ACCEPT, AND EXPEND FUNDS FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY (OTS) TO IMPLEMENT THE "YOU DRINK AND DRIVE, YOU LOSE" PROGRAM

Sergeant Dave Collins, Grant Unit, addressed the Commission explaining the grant's provisions and the proposal. Commissioner Makras made a motion to approve the grant. Second by Commissioner Friday. Motion approved 5-0.

RESOLUTION NO. 57-03

APPROVAL OF THE REQUEST OF THE CHIEF OF POLICE TO APPLY FOR RETROACTIVELY, ACCEPT, AND EXPEND FUNDS FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY (OTS) TO IMPLEMENT THE "YOU DRINK AND DRIVE, YOU LOSE" PROGRAM

RESOLVED, that the Police Commission hereby approves request of the Chief of Police to retroactively apply for, accept, and expend funds from the California Office of Traffic Safety (OTS) to implement the "You Drink and Drive, You Lose" Program, including any augmentations, extensions, and modifications.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

PUBLIC COMMENTS

None.

Thereafter, the meeting was adjourned at 6:30 p.m.

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
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VICTOR MAKRAS
Vice President

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Commissioner

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Commissioner

ANGELO QUARANTA
Commissioner

LT EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA
REGULAR MEETING
WEDNESDAY, NOVEMBER 19, 2003
6:00 p.m.

NORTHERN DISTRICT
NORTHERN STATION COMMUNITY ROOM
1125 Fillmore Street
San Francisco

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1. Pledge of Allegiance
2. Roll Call
3. Police Commission Announcements
   a. Motion of Calendaring of New Items
4. Chief's Announcements and Review of Recent Department Events
5. OCC Director's Report re: Staffing, Budget and Summary of Recent Events
6. Captain Kevin Cashman, Commanding Officer of Northern Station, to address the Commission on Police Activities in the Northern District
7. Public Comments
   (Members of the public may address the Commission for up to 3 minutes for individuals or up to 5 minutes for groups. The President of the Commission may limit the total testimony time.)

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The proceeding will be held at: Northern Police Station Community Room, 1125 Fillmore Street

Accessible MUNI lines serving this location is: #31 Balboa Muni Line
For information about MUNI service call 923 6142

The closest BART Station is: _____

Accessible parking Northern Police Station

For information about the meeting call 553-1667 **(v) or** 553-9194 **(tty)**

The San Francisco Police Commission,
Captain Kevin Cashman
and
The Officers of Northern Police Station
cordially invite you to attend:

"A Community Meeting of the Police Commission"

Wednesday, November 19, 2003
6:00pm

Northern Police Station Community Room
1125 Fillmore Street
San Francisco, California

This meeting will allow community members an opportunity to address the Police Commission on matters of interest and concerns in the Northern district.

Captain Cashman will present a "*State of the District*" Report.

A public comment period will follow.

NORTHERN POLICE DISTRICT STATION

NOVEMBER 19, 2003 REGULAR MEETING

The Police Commission of the City and County of San Francisco met in the Northern District, Northern Police Station Community Room, 1125 Fillmore Street, San Francisco, at 6:10 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Friday
ABSENT: Commissioners Chan, Quaranta

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioners Perry, Makras, and Friday introduced themselves and gave a brief description of their backgrounds.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Fagan introduced himself and the Command Staff: Assistant Chief Fong, Deputy Chiefs Suhr, Robinson, Bruce, Commanders Brown, Harper, Hom, Puts and Dudley.

OCC DIRECTOR'S REPORT RE: STAFFING, BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, introduced himself and gave a description of the OCC's functions. Director Allen introduced the newest member to join the OCC, Ms. Helen Amy.

CAPTAIN KEVIN CASHMAN, COMMANDING OFFICER OF NORTHERN STATION, TO ADDRESS THE COMMISSION ON POLICE ACTIVITIES IN THE NORTHERN DISTRICT

Captain Cashman addressed the Commission describing police activities in the Northern Police District. He introduced several officers and commended them for doing a very good job and the arrest of dangerous suspects. The Captain also presented Officer Vankoll a Purple Heart Medal. Officer Vankoll was ambushed and shot in the hand several years ago.

PUBLIC COMMENTS

Michael Posluszny addressed the Commission regarding strip clubs and forcing dancers into prostitution. He stated that he gave the department, in the past, articles on forced prostitution and the department nor Captain Cashman has done anything.

Shannon, Bay Area Police Watch, spoke regarding the Sheila Detoy shooting, a case which the Commission will have on the calendar for discussion and action on December 3rd.

Malaika Porter, Bay Area Police Watch, spoke regarding the issue of police shooting and the Sheila Detoy police shooting case.

Jessie Fernandez, Books not Bars, spoke regarding the Sheila Detoy shooting.

Mr. Ho, Bay Area Police Watch, spoke regarding the Sheila Detoy shooting.

Mike Molina, YGC youth counselor, spoke regarding police brutality.

Samantha Lapas spoke regarding the Sheila Detoy shooting and other police shooting.

Larain Altamon spoke regarding the Sheila Detoy shooting.

Mesha Irizarry spoke regarding the Sheila Detoy shooting.

Jo Altoma spoke regarding the mistrust the community have towards the police.

Michael Ramos, transgender, spoke on the issue of police harassment of transgender persons.

Richard Johnson, Chairperson of the Norther Station Community Relations Board, wanted to welcome to the District the Police Commission. He wanted to say, with the passing of Proposition H, that he is not sure what will happen but he hopes OCC, the Commission, and the community will get more involved. He also commended Officer Deely for his work towards community relations.

Stanley Stevens, Community Relations Forum, spoke on the issue of tenants relationship with complex management. He stated that police should work closely with tenants to help in crime prevention.

Unidentified spoke on the issue of police and stated that he was not afraid of the police.

Judith Edmund welcomed the Commission and the Chief to the District and stated that working with the Captain and the police at the station has been great. He stated that during community relation meetings, they don't always agree but it is good working with them.

Kathleen Silk, Bay Area Police Watch, spoke on the issue of police shootings and the shooting of Sheila Detoy.

Carolyn Devine, Northern District Community Relations Group, spoke in support of Captain Cashman for being a good leader. She stated that it takes a good leader in order to have good officers.

Thereafter, the meeting was adjourned at 7:35 p.m.

Lt. Edward Geeter, #1273

_____

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT EDWARD GERTEN
Secretary

= Agenda
= Cancelled

= 45
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CALENDAR OF PROCEEDINGS
POLICE COMMISSION MEETING

There will be no Police Commission meeting on Wednesday, November 26, 2003. The next Police Commission Regular Meeting will be on ***Wednesday, December 3, 2003***, at 5:30 p.m., in the Thomas J. Cahill Hall of Justice, 850 Bryant Street, Room 551, San Francisco.

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The Police Commission

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ANGELO QUARANTA
Commissioner

LT. EDWARD GEETER
Secretary

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13/03

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, DECEMBER 3, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

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1. Pledge of Allegiance

2. Roll Call

3. Approval of Minutes for the Meetings of November 5th, 12th, and 19, 2003 (ACTION ITEM)

4. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Lieutenant Daniel Curiel, Special Operations and Security (File No. C03-308 JWA) (ACTION ITEM)

5. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)

6. Chief's Announcements and Review of Recent Department Events

7. OCC Director's Report re: Staffing and Budget and Summary of Recent Events

8. Discussion and Possible Action to Amend Department General Orders 2.01 and 5.03 in accordance with the recommendations of the SFPD/Transgender Community Task Force (ACTION ITEM)

9. Discussion and Possible Action to Accept the Report of the SFPD/Transgender Community Task Force, and to Direct the Chief of Police to Work with Task Force Members and Members of the Transgender Community to Develop a Plan to implement the Task Force Recommendations that have yet to be accomplished (ACTION ITEM)

The Police Commission

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Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, DECEMBER 3, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

10. Discussion and Possible Action, Pursuant to the "Request for Proposal for Review of an Administrative Investigation into Allegations of Police Misconduct," to: 1) Select the Proposal submitted by Kroll Co., the proposer with the highest ranking, and authorize the Department to negotiate and, if possible, execute a contract with Kroll Co.; and 2) Authorize the Department, if it is unable, in good faith, to reach an agreement with Kroll within a reasonable time, to terminate the negotiations and commence negotiations and execute a contract with the remaining proposer with the highest ranking (ACTION ITEM)

11. Public Comments
(Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

12. Hearing on Disciplinary Charges filed against Officer Laurence B. Barker, Support Services (File No. C01-177 JWA) (ACTION ITEM)

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SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

Communication accessibility services; including sign language Interpreters or computer aided real time captioning will be made available upon advance request. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406(tty), at least 72 hours prior to a proceeding. Late requests will be honored if possible.

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The proceeding will be held at the Hall of Justice, 850 Bryant Street, 5th floor Police Commission Hearing Room. The closest accessible BART station is 5th and Mission Streets. Accessible MUNI lines serving this location are 42 and 9X San Bruno Express.

For information about MUNI service call 923 6142

Accessible parking is available in front of the Hall of Justice, 850 Bryant Street.

Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

DECEMBER 3, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:45 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Friday, Quaranta
ABSENT: Commissioner Chan

APPROVAL OF MINUTES FOR THE MEETINGS OF NOVEMBER 5TH, 12TH, AND 19, 2003

Motion by Commissioner Quaranta to approve the minutes of the Commission meetings of November 5th, 12th, and 19, 2003. Second by Commissioner Friday. Minutes approved 4-0.

RESOLUTION NO. 58-03

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST LIEUTENANT DANIEL CURIEL, SPECIAL OPERATIONS & SECURITY (FILE NO. C03-308 JWA)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Lieutenant Daniel Curiel, Star No. 69, Special Operations & Security, was called it having been set for this date; and

WHEREAS, Commissioner Angelo Quaranta is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Lieutenant Daniel Curiel; therefore be it

RESOLVED, that Commissioner Angelo Quaranta is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Lieutenant Daniel Curiel, and is to be set at a later date.

AYES: Commissioners Perry, Makras, Friday, Quaranta
ABSENT: Commissioner Chan

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Makras spoke of his dissatisfaction that the public who spoke at the Commission meeting of November 19, 2003 was not given notice at that time that the matter of their concerns was not going to be discussed at tonight's meeting. He stated that anything less than being straight forward casts a shadow on the Commission's intent.

Commissioner Makras stated that it appears that a misrepresentation might exist regarding the matter of the Detoy case. That he would like the attorneys involved and the Secretary to the Police Commission to give a declaration under penalty of perjury to their understanding of submitting written documents only to the Commission on the Detoy's Government Code 3304 case. He also asked that the Commission Secretary send a letter to the attorneys with that request.

Commissioner Perry stated that the Detoy matter was never actually calendared for December 3rd. We had discussed with the parties and the parties' attorneys that date and it was based on the fact that there would be no oral arguments. If you look at tonight's calendar, it is very full. This matter would never have been scheduled for the 3rd if there were to be oral arguments.

The Commission also received a request from one of the public interest group to intervene as amicus and that had to be considered. The parties were notified including the intervening group that the matter would not be on calendar tonight. So the public was aware of it and they were never notified that it would be on the calendar and they were notified it would be continued and the matter will be heard December 10, 2003.

Commissioner Makras asked Police Chief Fagan if he could prepare a new General Order that reflects the same guidelines and safeguards that Proposition H places on the OCC to place the same guidelines and safeguards on MCD in order to eliminate future 3304 issues by the end of the year.

Chief Fagan stated that he would work with his staff to prepare such guidelines, but the Commission should be advised that this would be a matter of meet and confer with employee groups and the City Attorney.

Commissioner Perry stated that, in lieu of a general order, would it be possible to calendar this matter as a Commission order to have the department follow this policy until such time that an order could be drafted. The other Commissioners agreed.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Fagan reported that under Administrative Code, Chapter 96, he will be submitting a written report by next Wednesday on the matter of reporting on the status of OCC sustained complaints filed with the Police Department.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, asked Commissioner Makras if he wanted a declaration from his attorney on the Detoy case. Commissioner Makras stated yes.

Director Allen reported that he met with the department today regarding tracking cases involving OCC, MCD, & EEO cases. He stated that he is pleased with the progress being made regarding the tracking program and stated that more meetings are scheduled.

Commissioner Quaranta excused himself at 6:05 p.m.

DISCUSSION AND POSSIBLE ACTION TO AMEND DEPARTMENT GENERAL ORDERS 2.01 AND 5.03 IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE SFPD/TRANSGENDER COMMUNITY TASK FORCE

Sergeant Stephan Thorne addressed the Commission on the issue of amending General Orders 2.01 and 5.03 concerning transgender issues.

Assistant Chief Fong addressed the Commission on the amended General Orders 2.01 and 5.03 and asked the Commission for approval.

Commissioner Friday made a motion to approve the two amended general orders. Second by Commissioner Makras. Approved 3-0.

RESOLUTION NO. 59-03

APPROVAL OF REVISED GENERAL ORDER 2.01, "GENERAL RULES OF CONDUCT" AND GENERAL ORDER 5.03,

"INVESTIGATIVE DETENTIONS" IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE SFPD/TRANSGENDER COMMUNITY TASK FORCE

RESOLVED, that the Police Commission hereby adopts revised General Order 2.01, "General Rules of Conduct" and General Order 5.03, "Investigative Detentions," in accordance with the recommendations of the SFPD/Transgender Community Task Force.

AYES: Commissioners Perry, Makras, Friday
ABSENT: Commissioners Chan, Quaranta

DISCUSSION AND POSSIBLE ACTION TO ACCEPT THE REPORT OF THE SFPD/TRANSGENDER COMMUNITY TASK FORCE, AND TO DIRECT THE CHIEF OF POLICE TO WORK WITH TASK FORCE MEMBERS AND MEMBERS OF THE TRANSGENDER COMMUNITY TO DEVELOP A PLAN TO IMPLEMENT THE TASK FORCE RECOMMENDATIONS THAT HAVE YET TO BE ACCOMPLISHED

Sergeant Stephan Thorne addressed the Commission on the Transgender Task Force report and stated that of the 15 recommendations some have been approved and same are being worked on.

Commissioner Friday made a motion to accept the report. Second by Commissioner Makras. Approved 3-0.

RESOLUTION NO. 60-03

APPROVAL TO ACCEPT THE REPORT OF THE SFPD/TRANSGENDER COMMUNITY TASK FORCE, AND TO DIRECT THE CHIEF OF POLICE TO WORK WITH TASK FORCE MEMBERS AND MEMBERS OF THE TRANSGENDER COMMUNITY TO DEVELOP A PLAN TO IMPLEMENT THE TASK FORCE RECOMMENDATIONS THAT HAVE YET TO BE ACCOMPLISHED

RESOLVED, that the Police Commission hereby approves the report of the SFPD/Transgender Community Task Force, and directs the Chief of Police to work with Task Force Members and Members of the Transgender Community to develop a plan to implement the Task Force Recommendations that have yet to be accomplished.

AYES: Commissioners Perry, Makras, Friday
ABSENT: Commissioners Chan, Quaranta

DISCUSSION AND POSSIBLE ACTION, PURSUANT TO THE "REQUEST FOR PROPOSAL FOR REVIEW OF AN ADMINISTRATIVE INVESTIGATION INTO ALLEGATIONS OF POLICE MISCONDUCT," TO (1) SELECT THE PROPOSAL SUBMITTED BY KROLL CO., THE PROPOSER WITH THE HIGHEST RANKING, AND AUTHORIZE THE DEPARTMENT TO NEGOTIATE AND, IF POSSIBLE, EXECUTE A CONTRACT WITH KROLL CO.; (2) AUTHORIZE THE DEPARTMENT, IF IT IS UNABLE, IN GOOD FAITH, TO REACH AN AGREEMENT WITH KROLL WITHIN A REASONABLE TIME, TO TERMINATE THE NEGOTIATIONS AND COMMENCE NEGOTIATIONS AND EXECUTE A CONTRACT WITH THE REMAINING PROPOSER WITH THE HIGHEST RANKING

Assistant Chief Fong reported on the request for proposal for review of an administrative investigation into alleged police misconducts.

Commissioner Makras made a motion to select Kroll Co. to conduct the investigation, or if unable to reach a contract, to negotiate with the remaining proposer. The motion was second by Commissioner Friday. Approved 3-0.

RESOLUTION NO. 61-03

APPROVAL, PURSUANT TO THE "REQUEST FOR PROPOSAL FOR REVIEW OF AN ADMINISTRATIVE INVESTIGATION INTO ALLEGATIONS OF POLICE MISCONDUCT," TO (1) SELECT THE PROPOSAL SUBMITTED BY KROLL CO., THE PROPOSER WITH THE HIGHEST RANKING, AND AUTHORIZES THE DEPARTMENT TO NEGOTIATE AND, IF POSSIBLE, EXECUTE A CONTRACT WITH KROLL CO.; AND (2) AUTHORIZE THE DEPARTMENT, IF IT IS UNABLE, IN GOOD FAITH, TO REACH AN AGREEMENT WITH KROLL WITHIN A REASONABLE TIME, TO TERMINATE THE NEGOTIATIONS AND COMMENCE NEGOTIATIONS AND EXECUTE A CONTRACT WITH THE REMAINING PROPOSER WITH THE HIGHEST RANKING

RESOLVED, that the Commission hereby approves, pursuant to the "Request for Proposal for Review of an Administrative Investigation into Allegations of Police Misconduct," to (1) Select the Proposal submitted by Kroll Co, the proposer with the highest ranking, and authorizes the Department to negotiate and, if possible, execute a contract with Kroll Co.; (2) Authorizes the Department, if it is unable, in good faith, to reach an agreement with Kroll within a reasonable time, to terminate the negotiations and commence negotiations and execute a contract with the remaining proposer with the highest ranking.

AYES:	Commissioners Perry, Makras, Friday
ABSENT:	Commissioners Chan, Quaranta

PUBLIC COMMENTS

Eddie Eglasies addressed the Commission regarding an alleged police brutality committed against his person and then handed the Commission some printed materials.

Shannon, Bay Area Police Watch, spoke on the death of Sheila Detoy by a police shooting.

Van Jones, Bay Area Police Watch, spoke on the issue of the Detoy case and asked the Commission not to allow the case to be dismissed under Government Code 3304.

Malaika Parker, Bay Area Police Watch, asked the Commission not to dismiss the charges on the officer involved in the Detoy case.

Ivan Ho, Bay Area Police Watch, spoke on the issue of the Detoy case.

Lorraine asked the Commission not to dismiss the case against the officers involved in the Detoy case.

Greg Getty spoke on the issue of the Detoy case.

Lynn Anderson, Books Not Bars, spoke regarding the Detoy case.

Mesha Irizarry spoke on the issue of the police shooting of her son Idress Stelli and the police shooting of Sheila Detoy.

Jennifer McKlosky spoke on the issue of the Detoy case.

Jean Fong, Attorney Public Advocates, spoke on the issue of the disciplinary charges filed against Lieutenant Curiel.

Elizabeth Frantis spoke on the issue of medical marijuana and spoke against District Attorney Hallinan.

Jakada Imaki, Let's Get Free, spoke on the issue of the Detoy police shooting.

Henry Actamorato spoke on the issue of the Detoy police shooting.

HEARING OF OFFICER LAURENCE B. BARKER, SUPPORT SERVICES (FILE NO. C01-177 JWA)

The hearing of Police Officer Laurence B. Barker, Star No. 1040, Support Services, was called it having been set for this date. Officer Barker was charged, in a properly verified complaint by Fred H. Lau, Former Chief of Police of San Francisco Police Department, with violating the Rules and Procedures as follows:

SPECIFICATION NO. 1
Using his position as a police officer to procure personal privilege (violation of Rule 45 of Department General Order 2.01 of the San Francisco Police Department);

SPECIFICATION NO. 2
Conduct which undermines the good order and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department);

SPECIFICATION NO. 3
Failed to inform his supervisor or his commanding officer that he was taking medications which could impair his ability to perform his duties (violation of Rule I-D-3 of Department General Order 2.03 of the San Francisco Police Department);

SPECIFICATION NO. 4
Exceeded the prescribed dosage for controlled substances medications which could impair his ability to perform his duties (violation of Rule I-D-2 of Department General Order 2.03 of the San Francisco Police Department);

SPECIFICATION NO. 5
By exceeding the prescribed dosage of medications while on the way to work (violation of rule 4 of Department General Order 2.01 of the San Francisco Police Department).

Mr. Jerry W. Akins, Attorney at Law, appeared on behalf of the San Francisco Police Department.

Officer Laurence B. Barker appeared in person and was represented by Mr. Earl Disselhorst, Esq.

Closing statements were made by Attorney Jerry Akins.

Mr. Disselhorst requested for a ruling on his motion for a Closed Hearing and dismissal of all charges, he then made a closing statement.

The Commission granted the request for a Closed Hearing.

The Commission recessed and deliberated on the dismissal motion. The Commission dismissed four of the five specifications and sustained one.

The following character witnesses were called by the Defense, were sworn and testified:

Officer Laurence Barker
Retired Officer Michael O'Shea

Based on these findings, the Commission requested a recommendation from Chief of Police Alex Fagan.

Chief of Police Alex Fagan recommended that the Commission

exercise its discretion in imposing a penalty for Officer Laurence Barker.

The Commission again took the matter under submission, recessed, and returned. The Commission decided to terminate Officer Barker, and to hold said termination in abeyance if Officer Barker agrees, in writing, to the following conditions: (1) Officer Barker will take sixty (60) days off without pay; (2) Officer Barker will participate in the Department's General Order 11.11 Program that includes random monthly drug testing; and (3) Officer Barker will be on probation for five (5) years, and he will be terminated if the Commission or the Chief of Police sustains misconduct charges against him, with the exception of charges filed in Case No. C02-128, during that five-year period.

The Commission took the matter under submission, and the following resolution was adopted:

RESOLUTION NO. 62-03

DECISION - HEARING OF OFFICER LAURENCE B. BARKER, SUPPORT SERVICES (FILE NO. C01-177 JWA)

WHEREAS, on May 31, 2002, Fred H. Lau, Former Chief of Police of the San Francisco Police Department, made and served charges against Officer Laurence Barker, as follows:

SPECIFICATION NO. 1:
Using his position as a police officer to procure personal privilege (violation of Rule 45 of Department General Order 2.01 of the San Francisco Police Department);

(1) At all times herein mentioned, Laurence B. Barker, Star Number 1040, (hereinafter referred to as "the accused") was and is a police officer employed by the San Francisco Police Department and assigned to the Support Services Division.

(2) As a police officer, the accused was and is responsible for knowing and obeying the rules, orders, and procedures of the San Francisco Police Department.

(3) On September 19, 2001, at about 1400 hours, a member of the San Francisco Police Department, while on patrol in the Central District, observed a person in a San Francisco Police Department uniform soliciting funds on the street by the Alcatraz Tour ticket booth in the area of Pier 41, in San Francisco. The person was dressed in a San Francisco Police Department BDU but did not have gun belt or radio. When the officer investigated what he believed to be a person impersonating a member of the San Francisco Police Department, the accused identified himself by name, said he was on his way to work at the Hall of Justice, he was due to report for duty at 1500 hours and that his "bosses were aware of his activity."

(4) When the officer approached him, the Accused was standing to the side of a 3' x 2' sign on a stick which said in block blue letters at the top of the sign, "WTC SURVIVOR," followed on the next line by the word in large brown capital letters, "RELIEF," and on the next line in similar letters the words "FUND" to indicate he was soliciting money from tourists for a "relief fund" to "help our brothers and sisters." The configuration of the sign, to the casual observer, conveyed the idea that the accused was representing himself to be a survivor of the attack on the World Trade Center of September 11, 2001. The accused had a can in front of him containing currency and coins.

(5) When he solicited contributions from tourists while in partial uniform on September 19, 2001, the accused was not participating in a collection drive authorized or sponsored by the San Francisco Police Department or by the San Francisco Police Officers' Association [SFPOA]. The SFPOA did conduct a fund raising drive, but they solicited money from members of the department and not from the general public at large.

(6) The accused engaged in misconduct by using his position as a police officer to induce, and to attempt to induce, tourists to contribute money to him by soliciting funds for World Trade Center victim relief while in a partial uniform; any reasonable police officer must know that such conduct violates the standards of the department and is cause for discipline or dismissal from employment; because such conduct violates Rule 45 of Department General Order 2.01, which states:

> *"45. SECURING PERSONAL PRIVILEGES. Members shall not sue or attempt to use their official positions for securing personal privileges beyond what is authorized by law, or for avoiding the consequences of illegal conduct."*

SPECIFICATION NO. 2
Conduct which undermines the good order and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department);

(7) Paragraphs 1 through 6 from Specification No. 1 above are incorporated herein by reference and realleged as though set forth in full.

(8) The accused used his San Francisco Police Department uniform to help him in his solicitation of funds from tourists without authorization. On April 25, 2001, the accused was disarmed and ordered not to carry a concealable firearm on duty or off duty. Therefore, he was not in full uniform, which violated the uniform order which requires that if a uniform is worn, it shall be the full uniform including a handgun, baton, and handcuffs.

(9) Rule 23 of Department General Order 2.01 states:

> *"23. USE OF DEPARTMENT PROPERTY. Members shall use Department property according to Department policies and procedures. Members shall use and operate Department vehicles and equipment in a reasonable and prudent manner and not allow unauthorized persons in police vehicles or allow them to use Department equipment. Authorization under special circumstances may be granted by a superior officer."*

(10) The accused improperly used his department-issued uniform for his own purposes to facilitate solicitation of money from tourists without authorization and not in full uniform and could not take police action if necessary; any reasonable police officer must know that such conduct brings discredit on the department and undermines the good order, efficiency and discipline of the department and is cause for discipline or dismissal from employment; therefore, such conduct violates Rule 9 of Department General Order 2.01, which states:

> *"MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct by an officer either within or without the State that tends to undermine the order, efficiency or discipline of the Department, or reflects discredit upon the*

Department or any member, or is prejudicial to the efficiency and discipline of the Department, although not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."

SPECIFICATION NO. 3

Failed to inform his supervisor or his commanding officer that he was taking medications which could impair his ability to perform his duties (violation of Rule I-D-3 of Department General Order 2.03 of the San Francisco Police Department);

(11) Paragraphs 1 through 6 from Specification No. 1 above are incorporated herein by reference and realleged as though set forth in full.

(12) In the course of investigating the solicitation of funds from tourists, on September 19, 2001, at about 1500 hours, investigators determined that the accused appeared to be under the influence of some substance and the accused was ordered to submit to chemical testing for drugs and alcohol.

(13) The test results indicated that the accused had consumed far more than the prescribed dose of Hydrocodone (generic for Vicodin) and Acetaminophen.

(14) When questioned about the use of drugs, the accused stated that he had been prescribed ten Vicodin tablets on August 26, 2001, for an off duty back injury. The accused further stated that he took three Vicodin tablets some time before 1230 hours on September 19, 2001 and that he took three more Vicodin tablets sometime between 1400 hours and 1430 hours while in transit to Central Station for investigation of his solicitation of funds in uniform and off duty.

(15) The accused stated that he had never informed his supervisor or his Commanding Officer that he was taking medications which could impair his ability to perform his duties.

(16) The accused, by failing to inform his supervisor or his commanding officer that he was taking medications which could impair his ability to perform his duties, violated Rule I-D-3 of Department General Order 2.03 of the San Francisco Police Department, which states:

"3. NOTIFYING SUPERVISOR. Any member using legal over-the-counter non-prescription drugs, or prescription drugs, who feels in any way impaired shall advise his/her supervisor of such impairment."

SPECIFICATION NO. 4

Exceeded the prescribed dosage for controlled substances medications which could impair his ability to perform his duties (violation of Rule I-D-2 of Department General Order 2.03 of the San Francisco Police Department);

(17) Paragraphs 1 though 6 from Specification NO. 1 and paragraphs 12 through 15 above are incorporated herein by reference and realleged as though set forth in full.

(18) The accused did not inform his supervisor or his Commanding Officer that he was taking a medication that might impair his abilities to do his job and specifically did not inform his supervisor or Commanding Officer that he was exceeding the prescribed dosage of the medication.

(19) Be exceeding the prescribed dosage for controlled substance medications which could impair his ability to perform his duties, the accused violated Rule I-D-2 of Department General Order 2.03 of the San Francisco Police Department, which states:

> *"2. IMPAIRMENT. When drugs are prescribed, members are required to ask the prescribing physician or other authorized health practitioner whether the drug will impair them in the performance of their duties. If the prescribing practitioner indicates that the drug may impair performance of duties, the member shall inform his/her supervisor immediately upon reporting for duty."*

SPECIFICATION NO. 5
By exceeding the prescribed dosage of medications while on the way to work (violation of rule 4 of Department General Order 2.01 of the San Francisco Police Department).

(20) Paragraphs 1 through 6 from Specification No. 1 above are incorporated herein by reference and realleged as though set forth in full.

(21) The accused appeared to be under the influence of some substance and by his own admission he had consumed at least six times the prescribed dose of the prescribed medication while on the way to work. Rule 6 of Department General Order 2.01 requires members to be fit to perform their duties when they report for duty.

(22) By exceeding the prescribed dosage of medications while on the way to work to the extent that he appeared to be under the influence of a substance, the accused violated Rule 4 of Department General Order 2.01 of the San Francisco Police Department, which states:

> *"4. REPORTING FOR DUTY. Members shall report for duty at the time and place required and be physically and mentally fit to perform their duties."*

WHEREAS, a hearing on said charges was held before the Police Commission pursuant to Appendix A. Section A 8.343 of the Charter of the City and County of San Francisco on July 28, 2003, August 26, 2003 and on Wednesday, December 3, 2003, where the matter was submitted to the Police Commission for decision; and

WHEREAS, the Commission dismissed the allegations contained in Specifications No. 1, 3, 4, and 5of the disciplinary charges as preferred by Former Chief of Police Fred H. Lau against Officer Barker and finds the allegations contained in Specification No. 2 are sustained and disposed of as follows:

SPECIFICATION NO. 1	Dismissed
SPECIFICATION NO. 2	Sustained
SPECIFICATION NO. 3	Dismissed
SPECIFICATION NO. 4	Dismissed

And the Commission adopts the sustained specifications as its findings in this matter; therefore be it

RESOLVED, that based on these findings, consistent with the Commission's duty to protect the health, safety, and general welfare of the citizens of the City and County of San Francisco and the public in general, and in order to promote efficiency and discipline in the San Francisco Police

Department, the Police Commission orders the following discipline be imposed:

That Officer Laurence Barker be terminated with said termination held in abeyance if Officer Barker agrees, in writing, to the following conditions: (1) Officer Barker will take sixty (60) days off without pay; (2) Officer Barker will participate in the Department's General Order 11.11 Program that includes random monthly drug testing; and (3) Officer Barker will be on probation for five (5) years and will be terminated if the Commission or the Chief of Police sustains misconduct charges against him, with the exception of charges filed in Case No. C02-128, during that five year period.

FURTHER RESOLVED, that said sixty (60) day suspension shall commence at 0001 hours on Thursday, December 4, 2003, and terminate on Sunday, February 1, 2004, at 2400 hours.

If this decision is subject to review under Code of Civil Procedure section 1094.5, then the time and within which judicial review must be sought is governed by California Code of Civil Procedure, section 1094.6.

AYES: Commissioners Perry, Makras, Friday
ABSENT: Commissioners Chan, Quaranta

Thereafter, the meeting was adjourned at 11:30 p.m.

Lt. Edward Geeter, #1273

_____

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, DECEMBER 10, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

45
1
12/10/03
2

1. Pledge of Allegiance
2. Roll Call
3. Approval of Consent Calendar (ACTION ITEM)
4. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)
5. Chief's Announcements and Review of Recent Department Events
6. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
7. Presentation of Quarterly Report of Provision of Documents to the Office of Citizen Complaints (July - September 2003) (DISCUSSION ONLY)
8. Discussion and Action re: Revised General Order 7.02, "Psychological Evaluation of Juveniles" (ACTION ITEM)
9. Disposition on Disciplinary Charges filed against Inspector Arthur Stellini, Domestic Violence (File No. C01-409 GRN) (ACTION ITEM)
10. Discussion and Action re: Motion for Dismissal of Disciplinary Charges filed against Sergeant Gregory Breslin, Investigations (File No. C02-256 SCM), Sergeant Michael Moran, Park (File No. C02-257 SCM), Inspector Peter Siragusa, Vice (File No. C02-258 SCM), and Inspector James Zerga, Robbery (File No. C02-259 SCM), under Government Code 3304(d) (ACTION ITEM)
11. Public Comment
    (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, DECEMBER 10, 2003
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

CONSENT CALENDAR

1. Request of the Chief of Police for Approval to Accept a Donation of $4,000.00, from Ms. Catherine Accardi, to be used by the Crime Prevention Company's K-9 Unit (ACTION ITEM)

2. Request of the Chief of Police for Approval to Accept a 3-year old Malanois/German Shepherd, from Sergeant Darryl Tsujimoto, to be used by the Crime Prevention Comapany's K-9 Unit (ACTION ITEM)

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

*There will be Public Comments on any item before or during discussion of each item.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE: DONNA HALL, ADMINISTRATOR, CITY HALL, ROOM 244, #1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4689; OFFICE (415) 554-5163; E-MAIL: Donna Hall@ci.sf.ca.us. COPIES OF THE SUNSHINE ORDINANCE CAN BE OBTAINED FROM THE CLERK OF THE SUNSHINE TASK FORCE, THE SAN FRANCISCO PUBLIC LIBRARY, AND ON THE CITY'S WEBSITE AT www.ci.sf.ca.us/bdsupvrs/sunshine

Lobbyist Registration and Reporting Requirements
Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Government Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; webs site www.sfgov.org/ethics.

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The proceeding will be held at the Hall of Justice, 850 Bryant Street, 5th floor Police Commission Hearing Room. The closest accessible BART station is 5th and Mission Streets. Accessible MUNI lines serving this location are 42 and 9X San Bruno Express.

For information about MUNI service call 923 6142

Accessible parking is available in front of the Hall of Justice, 850 Bryant Street.

Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

DECEMBER 10, 2003 REGULAR MEETING

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Quaranta

APPROVAL OF CONSENT CALENDAR

Commissioner Makras made a motion to approve the Consent Calendar. Second by Commissioner Chan. Approved 4-0.

RESOLUTION NO. 63-03

APPROVAL OF THE REQUEST OF THE CHIEF OF POLICE TO ACCEPT A DONATION OF $4,000.00, FROM MS. CATHERINE ACCARDI, TO BE USED BY THE CRIME PREVENTION COMPANY'S K-9 UNIT

RESOLVED, that the Police Commission hereby approves the request of the Chief of Police to accept a donation of $4,000.00, from Ms. Catherine Accardi, to be used by the Crime Prevention Company's K-9 Unit.

AYES: Commissioners Perry, Makras, Chan, Quaranta
ABSENT: Commissioner Friday

RESOLUTION NO. 64-03

APPROVAL OF THE REQUEST OF THE CHIEF OF POLICE TO ACCEPT A GIFT OF A 3-YEAR OLD MALINOIS/GERMAN SHEPHERD, FROM SERGEANT DARRYL TSUJIMOTO, TO BE USED BY THE CRIME PREVENTION COMPANY'S K-9 UNIT

RESOLVED, that the Police Commission hereby approves the request of the Chief of Police to accept a gift of a 3-year old Malinois/German Shepherd, from Sergeant Darryl Tsujimoto, to be used by the Crime Prevention Company's K-9 Unit.

AYES: Commissioners Perry, Makras, Chan, Quaranta
ABSENT: Commissioner Friday

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry announced that Item 10 will be taken out of order and will be the next item discussed by the Commission and asked if there were any public comments on this issue.

DISCUSSION AND ACTION RE: MOTION FOR DISMISSAL OF DISCIPLINARY CHARGES FILED AGAINST SERGEANT GREGORY BRESLIN, INVESTIGATIONS (FILE NO. C02-256 SCM), SERGEANT MICHAEL MORAN, PARK (FILE NO. C02-257 SCM), INSPECTOR PETER SIRAGUSA, VICE (FILE NO. C02-258 SCM), AND INSPECTOR JAMES ZERGA, ROBBERY (FILE NO. C02-259 SCM), UNDER GOVERNMENT CODE 3304(d)

Commissioner Connie Perry announced that this item will be taken out of order and asked if there were any public comments on this issue.

Attorneys Katherine Mahoney and James Collins objected to the

Commission listening to public comments on a disciplinary issue.

Commissioner Perry ruled that the Commission will hear public comments.

Public comments were heard from thirteen (13) individuals who voiced their concerns.

PUBLIC COMMENTS:

Shannon, Bay Area Police Watch, spoke on the Detoy police shooting and asked the Commission not to approve the POA's motion to dismiss.

Ivan Ho, Bay Area Police Watch, asked the Commission not to drop the charges on the officers involved in the Detoy case.

Malaika Parker, Bay Area Police Watch, asked the Commission not to approve the dismissal motion made by the POA.

Van Jones, Bay Area Police Watch, asked the Commission not to approve the POA's dismissal motion on the Detoy case.

Unidentified spoke on the issue of the Detoy case and asked the Commission not to drop the charges against the police.

Sam Eltororado spoke on the Detoy case and asked the Commission not to drop charges against the officers involved.

Eddie spoke on the Detoy case and asked the Commission not to dismiss charges against the officers involved.

Mesha Irizzary spoke on the Detoy case and asked the Commission not to dismiss charges against the officers involved.

Lafat spoke on the issue of the Detoy case and asked the Commission not to dismiss charges against the involved officers.

Dillon spoke on the issue of the Detoy case.

Julia Butterfly spoke on the issue of the Detoy case.

Unidentified spoke on the issue of the Detoy case.

Unidentified spoke on the issue of the Detoy case.

Oral arguments regarding the Dismissal Motion were made by Attorneys Katherine Mahoney, Robert Moore, James Collins, and Peter Furst.

Oral argument against the Dismissal Motion was made by Attorney Jean Field, Office of Citizen Complaints.

Rebuttal argument was made by Attorney Katherine Mahoney.

The Commission recessed and returned, and the following resolution was adopted:

RESOLUTION NO. 65-03

DECISION RE: MOTION FOR DISMISSAL OF DISCIPLINARY CHARGES FILED AGAINST SERGEANT GREGORY BRESLIN, INVESTIGATIONS (FILE NO. C02-256 SCM), SERGEANT MICHAEL MORAN, PARK (FILE NO. C02-257 SCM), INSPECTOR PETER SIRAGUSA, VICE (FILE NO. C02-258 SCM), AND INSPECTOR JAMES ZERGA, ROBBERY (FILE NO. C02-259 SCM), UNDER GOVERNMENT CODE 3304(d)

RESOLVED, that the Police Commission unanimously decided to deny the Dismissal Motion and that the City Attorney will prepare an order consistent with the Commission's findings and have that approved on calendar after it is written.

AYES: Commissioners Perry, Makras, Chan, Quaranta
ABSENT: Commissioner Friday

Commissioner Quaranta excused himself at 7:30 p.m.

DISPOSITION ON DISCIPLINARY CHARGES FILED AGAINST INSPECTOR ARTHUR STELLINI, DOMESTIC VIOLENCE (FILE NO. C01-409 GRN)

Item taken out of order.

After hearing testimony from Attorney Robert Moore, representing Inspector Stellini, and Attorney Geoffrey Spellberg, for the Department, the Commission went into deliberation. Upon returning, Commissioner Perry announced that the Commission will table the matter and put back on the calendar at a later date, and the reason is that they were not able to reach a decision tonight. Both attorneys set a new date of January 7, 2004.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Fagan reported on all cases where Government Code 3304 is at issue. He stated that it is his hope that this is the last time the Department have to respond to matters that has gone 3304. He reported on all cases, OCC and MCD cases, from 1999 to present. He stated that he is sad to report these matters to the Commission and stated that he believes that the deficiencies found within the MCD case management database have been identified and new procedures have been implemented in order to correct past practices that have resulted in 3304 dismissals.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, thanked the Commission for taking the time today to resolve the hearing heard earlier.

Director Allen reported that a staff attorney, initially on leave, is having serious personal problems and it is not known whether she will return sot he OCC is seeking to hire a temporary policy writer.

PRESENTATION OF QUARTERLY REPORT OF PROVISION OF DOCUMENTS TO THE OFFICE OF CITIZEN COMPLAINTS (JULY - SEPTEMBER 2003)

Lieutenant Charles Keohane, Legal Division, reported on the progress of the policy procedure of provision of documents to the OCC. He stated that, following the policy procedure, a problem was discovered. The forms that OCC were using to request documents were the same forms citizens were using to request information which meant that OCC requests were mixed with regular citizens' requests and delays were experienced. This has been corrected.

DISCUSSION AND ACTION RE: REVISED GENERAL ORDER 7.02, "PSYCHOLOGICAL EVALUATION OF JUVENILES"

Taken off calendar for a future date.

PUBLIC COMMENTS

Barbara George thanked Chief Fagan, Assistant Chief Fong, Deputy Chief Robinson and stated that she is a member of a group of mothers of murdered children. She stated that twice a month the Department holds a meeting with the mothers of murdered children to update them and keep them involved in the investigation.

Thereafter, the meeting was adjourned at 7:45 p.m.

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

DOCUMENTS DEPT.

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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA
REGULAR MEETING
WEDNESDAY, DECEMBER 17, 2003
6:00 p.m.

BAYVIEW DISTRICT
BAYVIEW STATION COMMUNITY ROOM
201 Williams Avenue
San Francisco

45
1
12/17/03

=Agenda

1. Pledge of Allegiance

2. Roll Call

3. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Sergeant Kyle K. Ching, Mission (File No. C03- 313 JWA) (ACTION ITEM)

4. Police Commission Announcements
   a. Motion of Calendaring of New Items

5. Chief's Announcements and Review of Recent Department Events

6. OCC Director's Report re: Staffing, Budget and Summary of Recent Events

7. Disposition on Disciplinary Charges filed against Inspector Arthur Stellini, Domestic Violence (File No. C01-409 GRN) (ACTION ITEM)

8. Captain Michael Puccinelli, Commanding Officer of Bayview Station, to address the Commission on Police Activities in the Bayview District

9. Public Comments
   (Members of the public may address the Commission for up to 3 minutes for individuals or up to 5 minutes for groups. The President of the Commission may limit the total testimony time.)

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

**There will be Public Comments on any item before or during discussion of each item.*

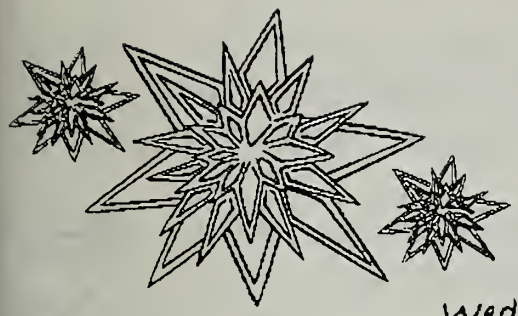
KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE: DONNA HALL, ADMINISTRATOR, CITY HALL, ROOM 244, #1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4689; OFFICE (415) 554-7724; FAX (415) 554-5163; E-mail: Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine

Lobbyist Registration and Reporting Requirements
Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Government Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; webs site www.sfgov.org/ethics



Please join us . . .

Wednesday, December 17, 2003
Bayview Police Station Community Room
201 Williams Avenue, San Francisco

for the . .

Bayview Police District
Holiday Get-Together

Complimentary hors d' oeuvres

5:00 p.m.

S.F. Police Commission Hearing

6:00 p.m.

The agenda will include, but not limited to,
the Police Chief's announcements and review of recent departmental events . . .
the Captain will address the Commission on police activities in the
Bayview Police District . . and public comment.

We look Forward to Seeing You!

Bring an unwrapped gift for a child . . .
for S.F.P.D. Operation Dream

Contact Information

Officer Gigi George — Bayview Police Station
Telephone: 671-2313

Lt. Edward Geeter, Commission Secretary — Police Commission
Telephone: 415-553-1667
www.ci.sf.ca.us/police/polcommisison/

Officer Charles McCullar — S.F.P.D. Operation Dream
Telephone: 415-671-3156
www.operationdream.org

PUBLIC MEETING/HEARING
ACCESSIBILITY INFORMATION

American sign language interpreters will be available upon request. Please contact Sgt. Michael Sullivan, at 553 1343, at least 72 hours prior to a proceeding. Late requests will be honored if possible.

A sound enhancement system will be available upon request at the proceeding. Please contact Sgt. Michael Sullivan, at 553 1343 at least 72 hours prior to a proceeding.
Late requests will be honored if possible.

Minutes of the proceedings are available in alternative formats. If you require the use of a reader during the meeting, please contact Sgt. Michael Sullivan, at 553 1343 at least 72 hours prior to a proceeding. Late requests will be honored if possible.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (415) 553 1343 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

The proceeding will be held at Bayview Police Station Community Room, 201 Williams.
The closest accessible BART n/a.
Accessible MUNI lines serving this location are #54 Felton Muni Line & #9 San Bruno

For information about MUNI service call 923 6142.

Accessible parking is available at the following location: Bayview Police Station
201 Williams Street, San Francisco

Accessible seating for persons with disabilities and wheelchairs will be available.

- For information about the meeting call 553-1667 Voice, or 553 9194 TDD.

San Francisco Police Department

DECEMBER 17, 2003 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in the Bayview District, at the Bayview Station Community Room, 201 Williams Avenue, San Francisco, at 6:00 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Chan, Quaranta
ABSENT: Commissioners Makras, Friday

Commissioner Perry announced that Item No. 7 will be taken out of order.

HEARING OF INSPECTOR ARTHUR STELLINI, DOMESTIC VIOLENCE (FILE NO. C01-409 GRN)

The hearing of Inspector Arthur Stellini, Star No. 707, Domestic Violence Unit, was called it having been set for this date. Inspector Stellini was charged, in a properly verified complaint by Prentice E. Sanders, Former Chief of Police of the San Francisco Police Department, with violating the Rules and Procedures as follows:

SPECIFICATION NO. 1

[Inattention to Duty] Failure to make report after learning from an officer and test candidate that the Q-35 Inspector Examination had been compromised (violation of Rule 1 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 2

[Undermining the Good Order and Discipline of the Department] Engaging in conduct which undermines the good order and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 3

[Disobeying Superior Officer's Directive] Failure to follow the lawful directive of a superior officer (violation of Rule 10 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 4

[Failure to Cooperate with Investigations] Failure to answer all questions truthfully and without evasion when questioned by a superior officer on matters relating to his employment with the Department (violation of Rule 21 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 5

[Failure to Cooperate with Investigations] Failure to answer all questions truthfully and without evasion when questioned by a superior officer on matters relating to his employment with the Department (violation of Rule 21 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 6

[Failure to Cooperate with Investigations] Failure to answer all questions truthfully and without evasion when questioned by a superior officer on matters relating to his employment with the Department (violation of Rule 21 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 7

[Failure to Report Compromise of Test] Failure to report a serious crime or urgent police matter which came to his attention while on duty (violation of Rule 25 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 8

[Failure to Report Compromise of Test] Failure to report a serious crime or urgent police matter which came to his attention while off duty (violation of Rule 26 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 9

[Compromise an Investigation] Engaging in conduct that may compromise an investigation or prosecution of a criminal offense (violation of Rule 48 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 10

[Compromising an Investigation] Divulging information that may compromise an investigation or prosecution of a criminal offense (violation of Rule 48 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 11

[Compromising an Investigation] Divulging information that may compromise an investigation or prosecution of a criminal offense (violation of Rule 48 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 12

[Divulging Confidential Information] Divulging information made confidential by law or by Department policies and procedures (violation of Rule 49 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 13

[Divulging Confidential Information] Divulging information made confidential by law or by Department policies and procedures (violation of Rule 49 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 14

[Divulging Confidential Information] Divulging information made confidential by law or by Department policies and procedures (violation of Rule 49 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 15

[Divulging Confidential Information] Divulging information made confidential by law or by Department policies and procedures (violation of Rule 49 of Department General Order 2.01 of the San Francisco Police Department).

Mr. Geoffrey Spellberg, Attorney at Law, appeared on behalf of the San Francisco Police Department.

Inspector Arthur Stellini appeared in person and was represented by Mr. Robert Moore, Attorney at Law.

Mr. Spellberg entered a motion to dismiss all Specifications except Specification No. 1. The Commission approved the motion to dismiss all Specifications except Specification No. 1.

Inspector Stellini admitted to the truth of the allegations contained in Specification No. 1, inattention to duty, and accepts responsibility for his actions.

Based on Inspector Stellini's admission, the Commission requested a recommendation from Chief of Police Alex Fagan.

It is the recommendation of Chief of Police Alex Fagan that Inspector Arthur Stellini be suspended for six (6) months with said suspension being immediately and permanently held in abeyance.

The Commission took the matter under submission and the following resolution was adopted:

RESOLUTION NO. 67-03

DECISION -HEARING OF INSPECTOR ARTHUR STELLINI, DOMESTIC VIOLENCE (FILE NO. C01-409 GRN)

WHEREAS, on March 22, 2002, Prentice E. Sanders, Former Chief of Police of the San Francisco Police Department, made and served disciplinary charges against Inspector Arthur Stellini, as follows:

SPECIFICATION NO. 1:
[Inattention to Duty] Failure to make report after learning from an officer and test candidate that the Q-35 Inspector Examination had been compromised (violation of Rule 1 of Department General Order 2.01 of the San Francisco Police Department).

(1) At all times mentioned herein Arthur Stellini, Star No. 707, was and is a police officer employed by the San Francisco Police Department, holding the rank of Q-50 Sergeant. At the time of the events described herein, Stellini was and still is assigned to the Domestic Violence Unit.

(2) As a police officer, Stellini was and is responsible for knowing and obeying the rules, orders and procedures of the San Francisco Police Department.

(3) In early September 1997, the San Francisco Police Department learned from an anonymous phone call that the confidentiality of the test scenarios for the promotional examination to the rank of Q-35 had been compromised. The Special Investigations Division ("SID") began an investigation. As part of the investigation, on September 18,1 997, SID interviewed Stellini. Stellini was a candidate for the Q-35 examination.

(4) During his October 21, 1997 interview, Stellini revealed that he had knowledge of some of the compromised scenarios. When questioned as to his source of the information, Stellini reported that he obtained the test scenarios from Inspector Henry Kirk, who dropped a piece of paper containing the test scenarios on Stellini's desk.

(5) In subsequent interviews, Stellini confirmed that Kirk dropped the paper containing the test scenarios on his desk, including details such as the hand from which Kirk dropped the paper.

(6) In May 1998, Stellini told investigators that he and Kirk spoke on the steps of the Hall of Justice on or about August 24, 1997, and that Kirk

confirmed that the test scenarios that he gave to Stellini were from the test scheduled to be given in early September 1997.

(7) Stellini did not report to any superior that he obtained the confidential test scenarios at any time prior to the scheduled date of the examination.

(8) In approximately October, 1997, after obtaining approval from the United States Attorney's office, the Department granted immunity from administrative and criminal prosecution to persons they interviewed based on the interviewee's agreement to cooperate and tell the entire truth. Cooperation specifically included the agreement to testify truthfully in court and in the administrative proceeding.

(9) SID again interviewed Stellini on October 21, 1997. At that time, SID granted Stellini immunity on the condition that he testify truthfully in all proceedings and cooperate fully with the investigation.

(10) Stellini violated the terms of the offer of immunity by giving false and incomplete information to investigators and not testifying truthfully and completely at trial.

(11) Stelllini's failure to report the receipt of the test scenarios is a neglect of duty under Department General Order 2.01 Rule 1, which states:

"1. ATTENTION TO DUTY. The basic mission of the San Francisco Police Department and its officers is to protect life and property; preserve the peace, prevent crime, enforce criminal laws and ordinances, and regulate non-criminal conduct as provided by law. While on duty, officers shall devote their entire time to the achievement of this mission within the context of their respective assignments."

SPECIFICATION NO. 2

[Undermining the Good Order and Discipline of the Department] Engaging in conduct which undermines the good order and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

(12) Each and every allegation contained in paragraphs 1 through 11 inclusive, of the above specification is incorporated herein by reference and is realleged as set forth in full.

(13) Prior to the scheduled promotional examination for the rank of Q-35, Stellini asked Inspector Henry Kirk, a subject matter expert for the examination, for the answers to the test. Stellini was a candidate for the test. Stellini knew that Henry Kirk was a subject matter expert for the test.

(14) Subject matter experts are sworn to keep information regarding the examination confidential and to refrain from discussing the examination.

(15) By requesting information from a subject matter expert for the examination, even in a joking manner, Stellini engaged in unofficer-like conduct that any reasonable police officer would recognize as conduct that brings discredit on the Department and conduct that undermines the order, efficiency or discipline of the Department in violation of Department General Order 2.01, Rule 9, which states:

"9. MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct by an officer either within or without the

state that tends to undermine the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, although not specifically defined or set forth in the Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."

SPECIFICATION NO. 3
[Disobeying Superior Officer's Directive] Failure to follow the lawful directive of a superior officer (violation of Rule 10 of Department General Order 2.01 of the San Francisco Police Department).

(16) Each and every allegation contained in paragraphs 1 through 15, inclusive, of the above specifications is incorporated herein by reference and is realleged as set forth in full.

(17) On October 21, 1997, Lt. Davenport ordered Stellini not to discuss the compromise of the test or Stellini's interviews with investigators with anybody.

(18) In January 1998, Stellini admitted to investigators that he told Mike Philpott, Mark McDonough, and Don Ciardella that he had taken a polygraph relating to the investigation.

(19) By telling Officers Philpott, McDonough, and Ciardella about taking the polygraph examination after being specifically told by Lt. Davenport not to talk to anyone about the investigation, Stellini failed to follow the lawful directive of a superior officer in violation of Department General Order 2.01, Rule 10, which states:

"10. WRITTEN ORDERS. Members shall obey all written orders, policies and procedures of the Department, and promptly obey all lawful written or verbal directives of a superior officer."

SPECIFICATION NO. 4
[Failure to Cooperate with Investigations] Failure to answer all questions truthfully and without evasion when questioned by a superior officer on matters relating to his employment with the Department (violation of Rule 21 of Department General Order 2.01 of the San Francisco Police Department).

(20) Each and every allegation contained in paragraphs 1 through 19, inclusive, of the above specifications is incorporated herein by reference and is realleged as set forth in full.

(21) During the interview on September 18, 1997, Stellini denied any knowledge of how the test became compromised. Specifically, when asked "Do you know how it came to be that the exam was alleged to be compromised?, Stellini replied "no."

(22) In additional interviews regarding the meeting between Stellini and Kirk on the steps of the Hall of Justice on or about August 24, 1997, Stellini stated that Kirk did not confirm that the test scenarios were those from the Q-35 test. However, during the interview with SID in May 1998, Stellini admitted that Kirk confirmed that the test scenarios that he gave to Stellini were from the test scheduled to be given in early September 1997.

(23) By telling investigators that Kirk did not confirm the test scenarios during the conversation on the Hall of Justice steps, and later admitting to investigators in May 1998 that Kirk did confirm the test scenarios during that conversation, Stellini failed to answer

all questions truthfully and without evasion in violation of Department General Order 2.01, Rule 21, which states:

"21. COOPERATION WITH INVESTIGATIONS. Members shall, when question on matters relating to their employment with the Department by a superior officer ... answer all questions truthfully and without evasion."

SPECIFICATION NO. 5
[Failure to Cooperate with Investigations] Failure to answer all questions truthfully and without evasion when questioned by a superior officer on matters relating to his employment with the Department (violation of Rule 21 of Department General Order 2.01 of the San Francisco Police Department).

(24) Each and every allegation contained I paragraphs 1 through 23, inclusive, of the above specifications is incorporated herein by reference and is realleged as set forth in full.

(25) Stellini testified before the Grand Jury that he had told Martinovich that Kirk was the source of the information regarding the test scenarios. During his interview with SID the day following Stellini's grand jury testimony, however, Stellini stated that he could not confirm that he told Martinovich that it was Kirk who provided the information.

(26) By testifying before the Grand Jury that Stellini had told Martinovich that Kirk was the source of the information regarding the test scenarios, and then stating the next day to the SID investigators that he could not confirm that he told Martinovich that it was Kirk who provided the information, Stellini failed to answer all questions truthfully and without evasion in violation of Department General Order 2.01, Rule 21, which states:

"21. COOPERATION WITH INVESTIGATIONS. Members shall, when questioned on matters relating to their employment with the Department by a superior officer ... answer all questions truthfully and without evasion."

SPECIFICATION NO. 6
[Failure to Cooperate with Investigations] Failure to answer all questions truthfully and without evasion when questioned by a superior officer on matters relating to his employment with the Department (violation of Rule 21 of Department General Order 2.01 of the San Francisco Police Department).

(27) Each and every allegation contained in paragraphs 1 through 26, inclusive, of the above specifications is incorporated herein by reference and is realleged as set forth in full.

(28) Stellini admitted to the SID investigators in May 1998 that he withheld information about Kirk from them in early interviews because he did not want Kirk to go to jail and was in fear of putting "the nail in [Kirk's] coffin."

(29) By withholding information from the SID investigators, Stellini failed to answer all questions truthfully and without evasion in violation of Department General Order 2.01, Rule 21, which states:

"21. COOPERATION WITH INVESTIGATIONS. Members shall, when questioned on matters relating to their employment with the Department by a superior officer ... answer all questions truthfully and without evasion."

SPECIFICATION NO. 7
[Failure to Report Compromise of Test] Failure to report a serious crime or urgent police matter which came to his attention while on duty (violation of Rule 25 of Department General Order 2.01 of the San Francisco Police Department).

(30) Each and every allegation contained in paragraphs 1 through 29, inclusive, of the above specifications is incorporated herein by reference and is realleged as set forth in full.

(31) In or about July 1997, Inspector Henry Kirk dropped a piece of paper on Stellini's desk as Stellini's assigned location in the Hall of Justice. The paper contained scenarios for the Q-35 test. Stellini knew or should have known that the scenarios were those that would be on the Q-35 test.

(32) Stellini's failure to report the receipt of the test scenarios violated Stellini's duty to report crimes or incidents requiring police attention in violation of Department General Order 2.01, Rule 25, which states:

"25. ON-DUTY WRITTEN REPORTS. While on duty, members shall make all required written reports of crimes or incidents requiring police attention."

SPECIFICATION NO. 8
[Failure to Report Compromise of Test] Failure to report a serious crime or urgent police matter which came to his attention while off duty (violation of Rule 26 of Department General Order 2.01 of the San Francisco Police Department).

(33) Each and every allegation contained in paragraphs 1 through 32, inclusive, of the above specifications is incorporated herein by reference and is realleged as set forth in full.

(34) On or about August 27, 1997, while off-duty, Stellini received confirmation from Kirk that the test scenarios set forth in the piece of paper that Kirk dropped on Stellini's desk were the scenarios that would be on the actual test.

(35) Stellini's failure to report the receipt of the test scenarios violated Stellini's duty to report an urgent police matter brought to his attention, in violation of Department General Order 2.01 Rule 26, which states:

"26. OFF-DUTY REPORTING. Officers shall, when off duty, report any serious crime or urgent police matter brought to their attention. Officers shall report any incident in which they become involved as a police officer."

SPECIFICATION NO. 9
[Compromise an Investigation] Engaging in conduct that may compromise an investigation or prosecution of a criminal offense (violation of Rule 48 of Department General Order 2.01 of the San Francisco Police Department).

(36) Each and every allegation contained in paragraphs 1 through 35, inclusive, of the above specifications is incorporated herein by reference and is realleged as set forth in full.

(37) The United States Attorney's office called Stellini as a witness in the criminal trial against Henry Kirk in June and July 1999. Stellini testified in the criminal matter that he did not know whether or not it was Kirk who dropped the note on his desk. His testimony became

vague and tentative, while during the SID interviews, his identification of Kirk was matter-of-fact and definite.

(38) In his October 21, 1997 interview, Stellini said that, about 3 - 5 weeks after the note-drop that he asked Kirk about the note. Kirk responded, "Well, that is the list."

(39) Stellini told investigators that Kirk "walked by, left hand dropped a note on my desk" Stellini added, "Nobody else could have dropped the note." Stellini explained why only Kirk could have dropped the note, "Yeah, and there's nobody else walking by, nobody else standing next to my desk, nobody walking in the office (inaudible)." Investigators asked Stellini to assign a number on a scale of one to ten to how sure he was as to Kirk's involvement in dropping the note. Stellini responded "Ten."

(40) Stellini attributed the following quote to Kirk on the steps: "Hey that's the test, what I gave you is the test, I put the test together. They didn't know what they were doing, I made the whole test up."

(41) Stellini omitted crucial details when testifying about the conversation he had with Kirk in August on the steps of the Hall of Justice. When asked by the prosecution what Kirk told him that convinced Stellini that the note contained the test scenarios, Stellini testified only that Kirk said that he "wrote the test." Stellini did not include the pivotal point that he told the investigators on May 29, that Kirk had stated that "Hey that's the test, what I gave you is the test."

(42) Stellini further undermined the prosecution's case by testifying that another officer, Dominic Celaya walked by "moments – seconds before" Kirk did. According to Stellini's trial testimony, Kirk and Celaya were so close that "one was [basically] following the other."

(43) When the presiding judge in the trial asked how sure Stellini was that Kirk dropped the note, Stellini stated he was "Pretty confident that I was ... it was not Inspector Salia [sic]."

(44) By changing his testimony during the federal trial, omitting key details, and equivocating where he had been unequivocal in his interviews, Stellini compromised the investigation in violation of Department General Order 2.01, Rule 48, which states:

"48. COMPROMISING INVESTIGATIONS. Except as provided by law or Department policy and procedure, members shall not divulge any information or engage in any conduct that may compromise an investigation or prosecution of a criminal offense."

SPECIFICATION NO. 10

[Compromising an Investigation] Divulging information that may compromise an investigation or prosecution of a criminal offense (violation of Rule 48 of Department General Order 2.01 of the San Francisco Police Department).

(45) Each and every allegation contained in paragraphs 1 through 44, inclusive, of the above specifications is incorporated herein by reference and is realleged as set forth in full.

(46) By telling Henry Kirk about the substance of his interviews with investigators, Stellini compromised the investigation in violation of Department General Order 2.01, Rule 48, which states:

"48. COMPROMISING INVESTIGATIONS. Except as provided by

law or Department policy and procedure, members shall not divulge any information or engage in any conduct that may compromise an investigation or prosecution of a criminal offense."

SPECIFICATION NO. 11
[Compromising an Investigation] Divulging information that may compromise an investigation or prosecution of a criminal offense (violation of Rule 48 of Department General Order 2.01 of the San Francisco Police Department).

(47) Each and every allegation contained in paragraphs 1 through 46, inclusive, of the above specifications is incorporated herein by reference and is realleged as set forth in full.

(48) By telling Dan Gardner about the substance of his interviews with investigators, Stellini compromised the investigation in violation of Department General Order 2.01, Rule 48, which states:

"48. COMPROMISING INVESTIGATIONS. Except as provided by law or Department policy and procedure, members shall not divulge any information or engage in any conduct that may compromise an investigation or prosecution of a criminal offense."

SPECIFICATION NO. 12
[Divulging Confidential Information] Divulging information made confidential by law or by Department policies and procedures (violation of Rule 49 of Department General Order 2.01 of the San Francisco Police Department).

(49) Each and every allegation contained in paragraphs 1 through 48, inclusive, of the above specifications is incorporated herein by reference and is realleged as set forth in full.

(50) On September 18, 1997, Lt. Davenport informed Stellini that the investigation was confidential and that the Department was doing all that it could to preserve the confidentiality of the nature and details of the investigation.

(51) Sometime between September 18, 1997 and October 21, 1997, Stellini spoke with Kirk about rumors linking Stellini and Kirk to the leak of the test scenarios, and about Kirk's speculation regarding potential methods for leaking test scenarios.

(52) By telling Henry Kirk about the substance of his interviews with investigators, Stellini divulged information that he knew or should have known was made confidential by law or by Department policies and procedures in violation of Department General Order 2.01, Rule 49, which states:

"49. DIVULGING CONFIDENTIAL INFORMATION. Except as required by law, members shall not divulge any information that is made confidential by law or by Department policies and procedures."

SPECIFICATION NO. 13
[Divulging Confidential Information] Divulging information made confidential by law or by Department policies and procedures (violation of Rule 49 of Department General Order 2.01 of the San Francisco Police Department).

(53) Each and every allegation contained in paragraphs 1 through 52, inclusive, of the above specifications is incorporated herein by reference and is realleged as set forth in full.

(54) Subsequent to the September 18, 1997 interview, Stellini talked to Dan

Gardner about the substance of his interview with investigators.

(55) By telling Dan Gardner about the substance of his interviews with investigators, Stellini divulged information that he knew or should have known was made confidential by law or by Department policies and procedures in violation of Department General Order 2.01, Rule 49, which states:

"49. DIVULGING CONFIDENTIAL INFORMATION. Except as required by law, members shall not divulge any information that is made confidential by law or by Department policies and procedures."

SPECIFICATION NO. 14
[Divulging Confidential Information] Divulging information made confidential by law or by Department policies and procedures (violation of Rule 49 of Department General Order 2.01 of the San Francisco Police Department).

(56) Each and every allegation contained in paragraphs 1 through 55, inclusive, of the above specifications is incorporated herein by reference and is realleged as set forth in full.

(57) By telling Officers Philpott, McDonough, and Ciardella about his taking the polygraph test, Stellini divulged information that he knew or should have known was made confidential by law or by Department policies and procedures in violation of Department General Order 2.01, Rule 49, which states:

"49. DIVULGING CONFIDENTIAL INFORMATION. Except as required by law, members shall not divulge any information that is made confidential by law or by Department policies and procedures."

SPECIFICATION NO. 15
[Divulging Confidential Information] Divulging information made confidential by law or by Department policies and procedures (violation of Rule 49 of Department General Order 2.01 of the San Francisco Police Department).

(58) Each and every allegation contained in paragraphs 1 through 57, inclusive, of the above specifications is incorporated herein by reference and is realleged as set forth in full.

(59) By disseminating the information he received regarding the test scenarios, Stellini divulged information that he knew or should have known was made confidential by law or by Department policies and procedures in violation of Department General Order 2.01, Rule 49, which states:

"49. DIVULGING CONFIDENTIAL INFORMATION. Except as required by law, members shall not divulge any information that is made confidential by law or by Department policies and procedures."

WHEREAS, a hearing on said charges was held before the Police Commission pursuant to Appendix A. Section A 8.343 of the Charter of the City and County of San Francisco on December 17, 2003, where the matter was submitted to the Police Commission for decision; and

WHEREAS, based on Inspector Arthur Stellini's admission, the Commission finds the allegations contained in Specification No. 1of the disciplinary charges as preferred by former Chief of Police Prentice E. Sanders against Inspector Stellini are sustained; and the Commission adopts the sustained specification as its findings in this matter; therefore be it

RESOLVED, that based on these findings, consistent with the Commission's duty to protect the health, safety, and general welfare of the citizens of the City and County of San Francisco and the public in general, and in order to promote efficiency and discipline in the San Francisco Police Department, the Police Commission orders the following discipline be imposed:

SPECIFICATION NO. 1	Sustained
SPECIFICATIONS NO. 2 - 15	Dismissed

That Inspector Arthur Stelini be suspended for six (6) months with said suspension being immediately and permanently held in abeyance.

If this decision is subject to review under Code of Civil Procedure section 1094.5, then the time and within which judicial review must be sought is governed by California Code of Civil Procedure, section 1094.6.

AYES: Commissioners Perry, Chan, Quaranta
ABSENT: Commissioner Makras, Friday

RESOLUTION NO. 66-03

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST SERGEANT KYLE K. CHING, MISSION (FILE NO. C03-313 JWA)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Sergeant Kyle K. Ching, Star No. 1133, Mission, was called it having been set for this date; and

WHEREAS, Commissioner Victor Makras is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Sergeant Kyle K. Ching; therefore be it

RESOLVED, that Commissioner Victor Makras is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Sergeant Kyle K. Ching, and is to be set at a later date.

AYES: Commissioners Perry, Chan, Quaranta
ABSENT: Commissioners Makras, Friday

POLICE COMMISSION ANNOUNCEMENTS

a. **Motion of Calendaring of New Items**

Commissioner Perry introduced herself and gave a brief bio of her background. Commissioner Quaranta and Commissioner Chan did the same.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Fagan introduced himself and the members of his command staff. Present were Assistant Chief Fong, Deputy Chiefs Robinson and Suhr, and Commanders Puts, Harper, and Brown.

OCC DIRECTOR'S REPORT RE: STAFFING, BUDGET, AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, described the duties and

responsibilities of the Office of Citizen Complaints.

CAPTAIN MICHAEL PUCCINELLI, COMMANDING OFFICER OF BAYVIEW STATION, TO ADDRESS THE COMMISSION ON POLICE ACTIVITIES IN THE BAYVIEW DISTRICT

Captain Puccinelli described the activities within the district. He also introduced members of his staff: Lieutenant Stasko, Lieutenant E. Quema, Lieutenant C. Johnson, and Lieutenant C. Orkes.

Commissioner Perry introduced Mr. Greg Lowder from the Mayor's Criminal Justice Counsel.

PUBLIC COMMENTS

Albert Sandoval thanked Chief Fagan and Captain Puccinelli for doing a great job. He also asked the Department for help with the school board to help put back a trade school in John O'Conner School. He stated that a trade school is very important in building skills.

Cynthia Johnson, mother of a homicide victim, thanked the Chief for all he has done in helping mothers of homicide victims. She stated that Chief Fagan meets with the mothers every month with an update and discusses ways to improve the situation. She asked what the mothers can do to assist the Chief with the new Mayor and Supervisors.

Howard Woo commended Captain Puccinelli and stated that the Captain and the officers are doing a good job.

Ray Bozin thanked Captain Puccinelli for a job well done and for his open door policy where you can discuss any problems.

Mr. Rubin spoke about the Sunnyside Conservation, located in the Ingleside District, and asked if the Commission would ask Captain Dillon to add more patrol in the area.

Unidentified spoke about Bayview District and asked for more street lights and additional bike patrols in the area.

Maggie Backie, mother of a homicide victim, spoke in favor of Captain Puccinelli but wanted to make a complaint about an officer being disrespectful. She made a complaint with OCC Director Allen.

Thereafter, the meeting was adjourned at 6:55 p.m.

Lt. Edward Geeter, #1273

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT. EDWARD GEETER
Secretary

F
45
1
12/24+31/03
Cancelled

≡ Agenda

CALENDAR OF PROCEEDINGS
POLICE COMMISSION MEETING

≡ Cancelled

There will be no Police Commission meeting on Wednesdays, December 24, 2003 and December 31, 2003. The next Police Commission Regular Meeting will be on ***Wednesday, January 7, 2004,*** in Room 551, Thomas J. Cahill Hall of Justice.

DOCUMENTS DEPT.

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